

SEVENTIETH DAY

FRIDAY, MAY 9, 1997

PROCEEDINGS

The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

The President announced that a quorum of the Senate was present.

The Reverend Susan Sprage, Trinity United Methodist Church, Austin, offered the invocation as follows:

Most loving God, creator and sustainer of the universes, You have loved us, and nurtured us, and called us to care for each other. You have given us life and purpose, and You have claimed us as Your own. As wandering children we seek Your presence amid the heights and depths of our humanness. We thank You that in all the seasons of our hearts and souls You are near. In the autumn chills of doubt and despair You encourage us. In the wintry bleakness of death and darkness You console and strengthen us. In our springtimes of hope and promise You bring the freshness of new life. In the summers of our souls we find peace and are enfolded by Your invincible love.

O God of all times and places, of death and resurrection, renew and empower us with Your spirit so that we might be bearers of the beams of Your love so that all might celebrate life in its fullness. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

(Senator Truan in Chair)

BILLS AND RESOLUTION SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

SB 63, SB 126, SB 191, SB 372, SB 452, SB 515, SB 526, SB 611, SB 614, SB 652, SB 754, SB 887, SB 908, SB 927, SB 952, SB 1012, SB 1044, SB 1113, SB 1125, SB 1174, SB 1826, SCR 36

GUEST PRESENTED

Senator West was recognized and introduced to the Senate Ron Price, newly elected member of the Dallas Independent School District Board.

The Senate welcomed Mr. Price.

SENATE BILL 1243 WITH HOUSE AMENDMENT

Senator Madla called **SB 1243** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1243** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the regulation of perfusionists.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 17, Article 4529e, Revised Statutes, is amended to read as follows:

Sec. 17. EXEMPTIONS. This article does not apply to:

(1) a person licensed by another health professional licensing board if:

(A) the person does not represent to the public, directly or indirectly, that the person is licensed under this article, and does not use any name, title, or designation indicating that the person is licensed under this article; and

(B) the person confines the person's acts or practice to the scope of practice authorized by the other health professional licensing laws;

(2) a student enrolled in an accredited perfusion education program if perfusion services performed by the student:

(A) are an integral part of the student's course of study; and

(B) are performed under the direct supervision of a licensed perfusionist assigned to supervise the student and who is on duty and immediately available in the assigned patient care area;

(3) a person who has successfully completed an approved perfusion education program but who has not been issued a license as a provisional licensed perfusionist in accordance with the provisions of Section 14 of this article and:

(A) is at all times in compliance with the provisions of Section 14(b) of this article; and

(B) receives a license as a provisional licensed perfusionist within 180 days of the date upon which the person successfully completed an approved perfusion education program;

(4) a ~~the practice of any~~ legally qualified perfusionist employed by the United States government while in the discharge of official duties; or

(5) a person who is not a resident of this state if:

(A) the person is authorized to perform the activities and services of perfusion under the laws of the state of the person's residence and

is found by the board to possess educational and training qualifications substantially similar to those required of persons qualified to practice in this state; and

(B) the person notifies the board of the person's intent and the person is approved by the board, or its designated agent, to perform the [such] activities and services of a perfusionist [are performed] for a period not to exceed 10 [more than 30] days in any one year; or

(6) a person performing autotransfusion or blood conservation techniques under the supervision of a licensed physician.

SECTION 2. Section 9(b), Article 4529e, Revised Statutes, is repealed.

SECTION 3. (a) This Act takes effect September 1, 1997.

(b) The repeal of Section 9(b), Article 4529e, Revised Statutes, by this Act applies only to fees that become due on or after the effective date of this Act. Fees that become due before the effective date of this Act are governed by the law in effect on the day the fees became due, and the former law is continued in effect for that purpose.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Madla, the Senate concurred in the House amendment to **SB 1243** by a viva voce vote.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1300

Senator Carona submitted the following Conference Committee Report:

Austin, Texas
May 7, 1997

Honorable Bob Bullock
President of the Senate

Honorable James E. "Pete" Laney
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1300** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA

FRASER

DUNCAN

SHAPLEIGH

OGDEN

On the part of the Senate

KUBIAK

GREENBERG

McCALL

OLIVEIRA

CORTE

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1309 ON SECOND READING**

Senator Patterson asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSSB 1309, Relating to the regulation of the use of electroconvulsive therapy.

There was objection.

Senator Patterson then moved to suspend the regular order of business and take up **CSSB 1309** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 4.

Yeas: Barrientos, Brown, Cain, Carona, Ellis, Fraser, Galloway, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Ogden, Patterson, Shapiro, Truan, Wentworth, West, Zaffirini.

Nays: Harris, Ratliff, Shapleigh, Sibley.

Absent: Armbrister, Bivins, Duncan, Gallegos, Nixon, Whitmire.

CSSB 1309 was read second time.

(Senator Truan in Chair)

Senator Patterson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1309** as follows:

(1) On page 1, line 59, insert the word "known" between "any" and "current".

(2) Strike Section 2 of the bill and renumber the subsequent sections appropriately.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Moncrief asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 1.

CSSB 1309 as amended was passed to engrossment by the following vote: Yeas 20, Nays 5.

Yeas: Barrientos, Brown, Duncan, Ellis, Gallegos, Galloway, Haywood, Lindsay, Lucio, Luna, Madla, Nelson, Ogden, Patterson, Ratliff, Shapiro, Sibley, Truan, Wentworth, Zaffirini.

Nays: Cain, Harris, Moncrief, Shapleigh, West.

Absent: Armbrister, Bivins, Carona, Fraser, Nixon, Whitmire.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1309 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1309** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 21, Nays 5.

Yeas: Barrientos, Brown, Cain, Duncan, Ellis, Gallegos, Galloway, Haywood, Lindsay, Lucio, Luna, Madla, Nelson, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, Whitmire, Zaffirini.

Nays: Harris, Moncrief, Shapleigh, Truan, West.

Absent: Armbrister, Bivins, Carona, Fraser, Nixon.

CSSB 1309 was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Harris, Moncrief, Shapleigh, Truan, and West asked to be recorded as voting "Nay" on the final passage of the bill.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
Friday, May 9, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 92, Relating to the financing of sports and community venues and related infrastructure; authorizing the imposition of certain local taxes and the issuance of local bonds; providing penalties.

HB 318, Relating to the public education grant program.

HB 540, Relating to educational programs offered to colonia residents by the Texas Department of Housing and Community Affairs.

HB 793, Relating to notice that entry on property is forbidden for the purpose of prosecuting the offense of trespass.

HB 820, Relating to civil actions to recover fraudulent Medicaid claims.

HB 942, Relating to the AFDC and Medicaid benefits to children born to AFDC recipients.

HB 1117, Relating to the creation and powers of a neighborhood empowerment zone.

HB 1144, Relating to the consolidation of herbicide and pesticide laws under the jurisdiction of the Department of Agriculture.

HB 1176, Relating to public access to conviction and deferred adjudication information and to certain sex offender registration information maintained by the Department of Public Safety.

HB 1209, Relating to payments to vendors doing business with state government.

HB 1483, Relating to certain early voting processes and procedures; providing a criminal penalty.

HB 1518, Relating to an exemption from ad valorem taxation of the property of a neighborhood association.

HB 1553, Relating to court costs assessed for certain offenses to provide funding for child safety programs.

HB 1561, Relating to regulation of alarm systems by municipalities and counties.

HB 1610, Relating to a requirement of filing of a release of a judgment lien for ad valorem taxes on payment of the amount of the judgment.

HB 1665, Relating to disclosure of the location of certain subsurface conditions by a person who is selling unimproved real property to be used for residential purposes.

HB 1708, Relating to assignment of certain premium tax credits.

HB 1755, Relating to a mortgage guaranty insurance policy.

HB 1780, Relating to the purchase of service credit in the Employees Retirement System of Texas and the Teacher Retirement System of Texas.

HB 1789, Relating to reductions by certain insurers in writing or in the authority of agents to bind or solicit certain types of personal lines insurance.

HB 1791, Relating to the lamps and lights on vehicles operated on highways; providing a penalty.

HB 1945, Relating to the establishment of caseload standards for certain employees of the Texas Department of Human Services or the Department of Protective and Regulatory Services.

HB 2061, Relating to requiring certain individuals to file a statement of selective service status before receiving certain financial assistance.

HB 2129, Relating to the administration and financing of wireless service providers of 9-1-1 service.

HB 2257, Relating to the audit required for forfeited property and proceeds received by a law enforcement agency or an attorney representing the state.

HB 2629, Relating to the punishment for certain assaults committed against employees of primary or secondary schools.

HB 2776, Relating to the regulation of state superfund sites.

HB 2877, Relating to the issuance of bonds for projects by the Texas Public Finance Authority.

HB 3269, Relating to requirements for evidences of coverages issued by health maintenance organizations.

HB 3391, Relating to the licensing of banks as insurance agents and to certain nonresident agents; providing a penalty.

HB 3513, Relating to the position classification plan for state employees.

SB 206, Relating to licensing requirements for certain insurance agents.
(Amended)

SB 297, Relating to the technology allotment under the foundation school program.

SB 884, Relating to rules of statutory construction.

SB 996, Relating to the donation of certain surplus or salvage state property.

SB 1301, Relating to parking, vehicle traffic, and security in the Capitol Complex.

(Committee Substitute/Amended)

SB 1455, Relating to the ability of voters in certain counties to petition a commissioners court to increase the salary of members of the county sheriff's department.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 699 (Viva-voce vote)

HB 3490 (Viva-voce vote)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

(Senator Wentworth in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1786 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1786, Relating to project contract claims against a unit of state government.

The bill was read second time and was passed to engrossment by a viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1786 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1786** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 1786 was read third time and was passed by a viva voce vote.

AT EASE

Senator Zaffirini at 9:45 a.m. moved that the Senate stand At Ease subject to the call of the Chair.

The motion prevailed.

IN LEGISLATIVE SESSION

Senator Armbrister at 10:50 a.m. called the Senate to order as In Legislative Session.

SENATE BILL ON FIRST READING

The following bill was introduced, read first time, and referred to the committee indicated:

SB 1949 by Carona

Relating to the powers, duties, administration, financing, and operation of the Falcon's Lair Utility and Reclamation District; granting the authority to issue bonds.

To Committee on Natural Resources.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read first time and referred to the committees indicated:

HB 17 to Committee on State Affairs.

HB 247 to Committee on Jurisprudence.

HB 479 to Committee on International Relations, Trade, and Technology.

HB 574 to Committee on Natural Resources.

HB 607 to Committee on Health and Human Services.

HB 623 to Committee on Education.

HB 685 to Committee on State Affairs.

HB 836 to Committee on Education.

HB 853 to Committee on Economic Development.

HB 863 to Committee on Jurisprudence.

HB 1338 to Committee on State Affairs.

HB 1627 to Committee on State Affairs.

HB 1716 to Committee on Health and Human Services.

HB 1734 to Committee on Health and Human Services.

HB 1779 to Committee on State Affairs.
HB 1812 to Committee on State Affairs.
HB 1865 to Committee on Economic Development.
HB 1941 to Committee on Natural Resources.
HB 1990 to Committee on Jurisprudence.
HB 2017 to Committee on Health and Human Services.
HB 2078 to Committee on Health and Human Services.
HB 2088 to Committee on Health and Human Services.
HB 2094 to Committee on Health and Human Services.
HB 2099 to Committee on Health and Human Services.
HB 2101 to Committee on State Affairs.
HB 2153 to Committee on Criminal Justice.
HB 2183 to Committee on Jurisprudence.
HB 2189 to Committee on Jurisprudence.
HB 2222 to Committee on Criminal Justice.
HB 2255 to Committee on Health and Human Services.
HB 2300 to Committee on Natural Resources.
HB 2384 to Committee on Health and Human Services.
HB 2386 to Committee on Health and Human Services.
HB 2503 to Committee on Economic Development.
HB 2556 to Committee on Health and Human Services.
HB 2587 to Committee on Intergovernmental Relations.
HB 2622 to Committee on Intergovernmental Relations.
HB 2681 to Committee on Finance.
HB 2845 to Committee on Jurisprudence.
HB 2850 to Committee on Intergovernmental Relations.
HB 2873 to Committee on Economic Development.
HB 2932 to Committee on Health and Human Services.
HB 3021 to Committee on Jurisprudence.
HB 3037 to Committee on State Affairs.
HB 3052 to Committee on Jurisprudence.
HB 3063 to Committee on State Affairs.
HB 3246 to Committee on International Relations, Trade, and
Technology.
HB 3250 to Committee on Finance.
HB 3305 to Committee on State Affairs.
HB 3306 to Committee on State Affairs.
HB 3314 to Committee on Natural Resources.
HB 3319 to Committee on Intergovernmental Relations.
HB 3330 to Committee on Natural Resources.
HB 3337 to Committee on State Affairs.
HB 3345 to Committee on Jurisprudence.
HB 3437 to Committee on State Affairs.
HB 3441 to Committee on State Affairs.
HB 3448 to Committee on State Affairs.
HB 3465 to Committee on Veteran Affairs and Military Installations.
HB 3540 to Committee on Intergovernmental Relations.
HB 3542 to Committee on Jurisprudence.

HB 3543 to Committee on State Affairs.
HB 3549 to Committee on Natural Resources.
HB 3566 to Committee on Intergovernmental Relations.
HB 3570 to Committee on State Affairs.
HB 3572 to Committee on Criminal Justice.
HB 3585 to Committee on State Affairs.
HB 3588 to Committee on Criminal Justice.
HCR 14 to Committee on Administration.
HCR 23 to Committee on Administration.
HCR 116 to Committee on Administration.
HCR 150 to Committee on Administration.
HCR 168 to Committee on Health and Human Services.
HCR 202 to Committee on International Relations, Trade, and Technology.
HCR 206 to Committee on Administration.
HCR 211 to Committee on Finance.

BILLS SIGNED

The Presiding Officer announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

HB 588, HB 708, HB 711, HB 758, HB 833, HB 1149, HB 1386, HB 1929

GUESTS PRESENTED

Senator Truan was recognized and introduced to the Senate Pi-Cheng Liu, Inspector of the International Trade Commission of the Ministry of Economic Affairs from Taiwan and Dr. Carlos Camino Munoz, Vice-president of the European Commission and member of the cabinet in charge of external relations with Asia, Latin America, the Middle East, and Southern Mediterranean countries.

The Senate welcomed its guests.

CAPITOL PHYSICIAN

The "Doctor for the Day," Dr. Earl Martin of Tomball, was introduced to the Senate by Senator Lindsay.

The Senate expressed appreciation and gratitude to Dr. Martin for participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

GUESTS PRESENTED

Senator Madla, on behalf of Senator Luna, was recognized and introduced to the Senate the San Antonio Independent School District All-City Mariachi Band.

The Senate welcomed its guests.

RECESS

The Presiding Officer, Senator Armbrister in Chair, at 11:05 a.m. announced the Senate would recess until 1:00 p.m. today.

AFTER RECESS

The Senate met at 1:00 p.m. and was called to order by the President.

SENATE RESOLUTION 664

Senator Moncrief offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pride in recognizing Brandon Chicotsky, Brent King, Russell Knight, and Ian Toohey on winning first place in the junior division group performance at the Regional History Fair competition on April 5, 1997; and

WHEREAS, These four students attend Wedgwood Sixth Grade Center in Southwest Fort Worth; their performance at the Regional History Fair qualified them to compete at the Texas State History Day competition on May 9 and 10 in Austin; and

WHEREAS, The students are from Mr. Fuller's social studies class and were selected by Mr. Fuller to perform in the Fort Worth Independent School District's annual History Fair Competition; the group was chosen because of its excellent performance in Wedgwood Center's History Fair this year; and

WHEREAS, The boys' performance was titled "Triumph and Tragedy: An Interview with Three Heroes of Civil Reform"; the performance consisted of "interviews" with Dr. Martin Luther King, Mahatma Gandhi, and Emiliano Zapata; all entries in the competition were required to relate to this year's state theme of "Triumph and Tragedy"; and

WHEREAS, Brandon, Brent, Russell, and Ian are exemplary young men and high achieving students whose talents and industriousness have brought honor to their families, their school, and their community; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby commend Brandon Chicotsky, Brent King, Russell Knight, and Ian Toohey on their outstanding group performance and extend congratulations to them on qualifying to participate in the Texas State History Day competition; and, be it further

RESOLVED, That copies of this Resolution be prepared for these exceptional students as an expression of esteem from the Texas Senate.

The resolution was read and was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Moncrief was recognized and introduced to the Senate Brandon Chicotsky, Brent King, Russell Knight, and Ian Toohey from Wedgwood Sixth Grade Center in Southwest Fort Worth.

The Senate welcomed its guests.

SENATE RULE 2.02 SUSPENDED

On motion of Senator Armbrister and by unanimous consent, Senate Rule 2.02 was suspended, allowing each Senator to have staff members seated at their desks on the Senate floor during the deliberation of CSHB 4.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
Friday, May 9, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 200, Honoring Dr. Frank Bash for his role in the creation of the Hobby-Eberly Telescope.

HCR 243, In memory of Robert W. Wright.

SB 358, Relating to the continuation and functions of the Credit Union Commission.
(Amended)

SB 1706, Relating to the funding of passenger rail service by the Texas Department of Transportation.
(Committee Substitute)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

(Senator Brown in Chair)

(President in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 4 ON SECOND READING**

Senator Armbrister asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSHB 4, Relating to funding public elementary and secondary schools and providing property tax relief and equity and to the imposition, administration, enforcement, and collection of, and allocation of the revenue from, various state and local taxes; providing penalties; making an appropriation.

There was objection.

(Senator Whitmire in Chair)

(President in Chair)

Senator Armbrister then moved to suspend the regular order of business and take up **CSHB 4** for consideration at this time.

The motion prevailed by the following vote: Yeas 23, Nays 8.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carona, Duncan, Fraser, Harris, Lindsay, Lucio, Luna, Madla, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Cain, Ellis, Gallegos, Galloway, Haywood, Moncrief, Nelson, Whitmire.

CSHB 4 was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend CSHB 4 in Article 2 by adding a new section, appropriately numbered, to read as follows and renumbering subsequent sections accordingly:

SECTION 2. Title 1, Tax Code, is amended by adding Chapter 51 to read as follows:

CHAPTER 51. SCHOOL TAX SAVINGS REBATES TO RENTERS

Sec. 51.001. DEFINITIONS. In this chapter:

(1) "Dwelling unit" means a structure or separately secured portion of a structure designed or used for human habitation by an individual or group of individuals constituting a single household.

(2) "Landlord" with respect to a dwelling unit that is held for rent or lease means the person who has the right to charge rent to a tenant for the use and occupancy of the dwelling unit.

(3) "Rent" includes the total amount charged by a landlord for the use and occupancy of a dwelling unit, not including refundable property deposits.

(4) "Tenant" means a person who rents or leases an individual dwelling unit from a landlord.

Sec. 51.002. SCHOOL TAX SAVINGS REBATE REQUIRED.

(a) In 1998, 1999, and 2000, not later than February 15, a landlord shall pay to each tenant who rents or leases a dwelling unit from the landlord on February 1 a rebate of a portion of the rent on that unit.

(b) If the amount of rent owed for February of the applicable year has not been fully paid by the tenant before the date the rebate is required to be paid by Subsection (a), the deadline for payment of the rebate is postponed until the 10th day after the date the February rent is fully paid.

(c) A landlord is not required to pay a rebate if the amount of the rebate calculated under Section 51.003 is less than \$5.

(d) A landlord shall include with each rebate paid under this section a notice stating substantially as follows: "The Texas Legislature enacted legislation in 1997 to lower school district property taxes throughout the state. That law requires your landlord to rebate to you a portion of the rent on your (insert "apartment," "residence," or other appropriate term for the dwelling unit) so that you may benefit from the tax reduction. Your landlord's tax savings on your (insert "apartment," "residence," or other appropriate term) for (insert reference to preceding calendar year) is (insert amount of school tax savings apportioned to the dwelling unit under Section 51.003(a)). The portion of that tax savings rebated to you is (insert amount of rebate)."

The law permits your landlord to retain the remainder of the tax savings to cover other costs and expenses."

Sec. 51.003. AMOUNT OF REBATE. (a) The amount of a rebate for a dwelling unit is determined by apportioning to each dwelling unit contained by a property the amount of the landlord's school tax savings for the property for the preceding tax year, calculated as provided by Subsection (b), according to the average monthly rent for each dwelling unit contained by the property for the year preceding the year for which the rebate is made, and multiplying the apportioned school tax savings by:

- (1) 75 percent for 1998;
- (2) 50 percent for 1999; or
- (3) 25 percent for 2000.

(b) The amount of a landlord's school tax savings for a property for a tax year is the amount by which school district ad valorem taxes imposed on the property for the tax year is less than the school tax base for the property for that tax year.

(c) The school tax base for a tax year on a property is calculated by multiplying the taxable value of the property for taxation by a school district for the tax year by the total school district ad valorem tax rate imposed on the property for 1996.

Sec. 51.004. EXCEPTIONS. This chapter does not apply to:

- (1) a dwelling unit that did not exist as an inhabitable dwelling unit on or before January 1, 1996; or
- (2) property that did not include a dwelling unit on January 1, 1996.

Sec. 51.005. ENFORCEMENT. (a) A landlord who does not pay a rebate to a tenant in the time required by Section 51.002 is liable to the tenant for the amount of the rebate plus an additional amount equal to two times the amount of the rebate.

(b) A tenant may recover the amounts provided by Subsection (a) by filing suit in a justice or county court. An action brought under this section may be brought as a class action on behalf of all tenants of a landlord to whom the rebate is not paid in the time required.

(c) It is presumed that a landlord did not pay a rebate in the time required by Section 51.002 if the landlord does not present to the court as evidence of the payment:

- (1) a receipt for the rebate signed by the tenant or a member of the tenant's household evidencing that the amount of the rebate was paid in the time required; or
- (2) a canceled check or similar document evidencing that the amount of the rebate was paid to the tenant in the time required.

(d) A tenant who prevails in an action under this section may recover reasonable attorney's fees.

Sec. 51.006. CIVIL PENALTY. (a) A landlord who does not pay a rebate in the time required by Section 51.002 is liable to the state for a civil penalty. The amount of the penalty is equal to the amount of the rebate.

(b) The penalty is in addition to any amount that the tenant to whom the rebate was required to have been paid may recover from the landlord under Section 51.005.

(c) The county attorney or prosecuting attorney performing the functions of the county attorney shall collect the penalty for the state.

(d) A penalty collected under this section shall be sent to the comptroller. The comptroller shall deposit the penalty to the credit of the housing trust fund.

Sec. 51.007. EXPIRATION. This chapter expires January 1, 2005.

The amendment was read.

On motion of Senator Barrientos and by unanimous consent, Floor Amendment No. 1 was withdrawn.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 2

Amend CSHB 4 in Article 2 by adding a new section, appropriately numbered, to read as follows and renumbering subsequent sections accordingly:

SECTION 2. __. Title 1, Tax Code, is amended by adding Chapter 51 to read as follows:

CHAPTER 51. SCHOOL TAX SAVINGS REBATES TO RENTERS

Sec. 51.001. DEFINITIONS. In this chapter:

(1) "Dwelling unit" means a structure or separately secured portion of a structure designed or used for human habitation by an individual or group of individuals constituting a single household.

(2) "Landlord" with respect to a dwelling unit that is held for rent or lease means the person who has the right to charge rent to a tenant for the use and occupancy of the dwelling unit.

(3) "Rent" includes the total amount charged by a landlord for the use and occupancy of a dwelling unit, not including refundable property deposits.

(4) "Tenant" means a person who rents or leases an individual dwelling unit from a landlord.

Sec. 51.002. SCHOOL TAX SAVINGS REBATE REQUIRED.

(a) In 1998, 1999, and 2000, not later than February 15, a landlord shall pay to each tenant who rents or leases a dwelling unit from the landlord on February 1 a rebate of a portion of the rent on that unit.

(b) If the amount of rent owed for February of the applicable year has not been fully paid by the tenant before the date the rebate is required to be paid by Subsection (a), the deadline for payment of the rebate is postponed until the 10th day after the date the February rent is fully paid.

(c) A landlord is not required to pay a rebate if the amount of the rebate calculated under Section 51.003 is less than \$5.

(d) A landlord shall include with each rebate paid under this section a notice stating substantially as follows: "The Texas Legislature enacted legislation in 1997 to lower school district property taxes throughout the state. That law requires your landlord to rebate to you a portion of the rent on your (insert "apartment," "residence," or other appropriate term for the dwelling unit) so that you may benefit from the tax reduction. Your landlord's

tax savings on your (insert "apartment," "residence," or other appropriate term) for (insert reference to preceding calendar year) is (insert amount of school tax savings apportioned to the dwelling unit under Section 51.003(a)). The portion of that tax savings rebated to you is (insert amount of rebate). The law permits your landlord to retain the remainder of the tax savings to cover other costs and expenses."

Sec. 51.003. AMOUNT OF REBATE. (a) The amount of a rebate for a dwelling unit is determined by apportioning to each dwelling unit contained by a property the amount of the landlord's school tax savings for the property for the preceding tax year, calculated as provided by Subsection (b), according to the average monthly rent for each dwelling unit contained by the property for the year preceding the year for which the rebate is made, and multiplying the apportioned school tax savings by:

- (1) 75 percent for 1998;
- (2) 50 percent for 1999; or
- (3) 25 percent for 2000.

(b) The amount of a landlord's school tax savings for a property for a tax year is the amount by which school district ad valorem taxes imposed on the property for the tax year is less than the school tax base for the property for that tax year.

(c) The school tax base for a tax year on a property is calculated by multiplying the taxable value of the property for taxation by a school district for the tax year by the total school district ad valorem tax rate imposed on the property for 1996.

Sec. 51.004. LANDLORD'S REPORT. (a) Not later than May 1 of each year in which a rebate is required to be paid to the tenant of a dwelling unit under Section 51.002 or in which a rebate would be required to be paid to the tenant if the exemption from payment provided by Section 51.002(c) did not apply, the landlord of the dwelling unit on February 1 of that year shall file a report with the chief appraiser of the appraisal district established for the county in which the property containing the dwelling unit is located.

(b) The report must include the following information:

- (1) the address or location of the property;
- (2) a list of the dwelling units contained by the property for which a rebate is required to be paid for the year;
- (3) the rent charged for February of the year for each dwelling unit included in the report and the total amount of those rents; and
- (4) a statement of the amount of the rebate required for the year for each dwelling unit and whether the rebate has been paid.

(c) The comptroller shall prescribe the form of a report filed under this section.

(d) A person who is required by this section to file a report and who fails to file the report in the time provided by this section is liable to the state for a civil penalty not to exceed \$500.

Sec. 51.005. EXCEPTIONS. This chapter does not apply to:

- (1) a dwelling unit that did not exist as an inhabitable dwelling unit on or before January 1, 1996; or

(2) property that did not include a dwelling unit on January 1, 1996.
Sec. 51.006. ENFORCEMENT. (a) A landlord who does not pay a rebate to a tenant in the time required by Section 51.002 is liable to the tenant for the amount of the rebate plus an additional amount equal to two times the amount of the rebate.

(b) A tenant may recover the amounts provided by Subsection (a) by filing suit in a justice or county court. An action brought under this section may be brought as a class action on behalf of all tenants of a landlord to whom the rebate is not paid in the time required.

(c) It is presumed that a landlord did not pay a rebate in the time required by Section 51.002 if the landlord does not present to the court as evidence of the payment:

(1) a receipt for the rebate signed by the tenant or a member of the tenant's household evidencing that the amount of the rebate was paid in the time required; or

(2) a canceled check or similar document evidencing that the amount of the rebate was paid to the tenant in the time required.

(d) A tenant who prevails in an action under this section may recover reasonable attorney's fees.

Sec. 51.007. CIVIL PENALTY. (a) A landlord who does not pay a rebate in the time required by Section 51.002 is liable to the state for a civil penalty. The amount of the penalty is equal to the amount of the rebate.

(b) The penalty is in addition to any amount that the tenant to whom the rebate was required to have been paid may recover from the landlord under Section 51.006.

(c) The county attorney or prosecuting attorney performing the functions of the county attorney shall collect the penalty for the state.

(d) A penalty collected under this section shall be sent to the comptroller. The comptroller shall deposit the penalty to the credit of the housing trust fund.

Sec. 51.008. EXPIRATION. This chapter expires January 1, 2005.

The amendment was read and failed of adoption by the following vote:
Yeas 13, Nays 18.

Yeas: Barrientos, Cain, Ellis, Gallegos, Lindsay, Lucio, Luna, Madla, Shapleigh, Truan, West, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brown, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth.

Senator Barrientos again offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 4** in Article 2 by adding a new section, appropriately numbered, to read as follows and renumbering subsequent sections accordingly:

SECTION 2. Title 1, Tax Code, is amended by adding Chapter 51 to read as follows:

CHAPTER 51. SCHOOL TAX SAVINGS REBATES TO RENTERSSec. 51.001. DEFINITIONS. In this chapter:

(1) "Dwelling unit" means a structure or separately secured portion of a structure designed or used for human habitation by an individual or group of individuals constituting a single household.

(2) "Landlord" with respect to a dwelling unit that is held for rent or lease means the person who has the right to charge rent to a tenant for the use and occupancy of the dwelling unit.

(3) "Rent" includes the total amount charged by a landlord for the use and occupancy of a dwelling unit, not including refundable property deposits.

(4) "Tenant" means a person who rents or leases an individual dwelling unit from a landlord.

Sec. 51.002. SCHOOL TAX SAVINGS REBATE REQUIRED.

(a) In 1998, 1999, and 2000, not later than February 15, a landlord shall pay to each tenant who rents or leases a dwelling unit from the landlord on February 1 a rebate of a portion of the rent on that unit.

(b) If the amount of rent owed for February of the applicable year has not been fully paid by the tenant before the date the rebate is required to be paid by Subsection (a), the deadline for payment of the rebate is postponed until the 10th day after the date the February rent is fully paid.

(c) A landlord is not required to pay a rebate if the amount of the rebate calculated under Section 51.003 is less than \$5.

(d) A landlord shall include with each rebate paid under this section a notice stating substantially as follows: "The Texas Legislature enacted legislation in 1997 to lower school district property taxes throughout the state. That law requires your landlord to rebate to you a portion of the rent on your (insert "apartment," "residence," or other appropriate term for the dwelling unit) so that you may benefit from the tax reduction. Your landlord's tax savings on your (insert "apartment," "residence," or other appropriate term) for (insert reference to preceding calendar year) is (insert amount of school tax savings apportioned to the dwelling unit under Section 51.003(a)). The portion of that tax savings rebated to you is (insert amount of rebate). The law permits your landlord to retain the remainder of the tax savings to cover other costs and expenses."

Sec. 51.003. AMOUNT OF REBATE. (a) The amount of a rebate for a dwelling unit is determined by apportioning to each dwelling unit contained by a property the amount of the landlord's school tax savings for the property for the preceding tax year, calculated as provided by Subsection (b), according to the average monthly rent for each dwelling unit contained by the property for the year preceding the year for which the rebate is made, and multiplying the apportioned school tax savings by:

(1) 75 percent for 1998;

(2) 50 percent for 1999; or

(3) 25 percent for 2000.

(b) The amount of a landlord's school tax savings for a property for a tax year is the amount by which school district ad valorem taxes imposed on the property for the tax year is less than the school tax base for the property for that tax year.

(c) The school tax base for a tax year on a property is calculated by multiplying the taxable value of the property for taxation by a school district for the tax year by the total school district ad valorem tax rate imposed on the property for 1996.

Sec. 51.004. EXCEPTIONS. This chapter does not apply to:

(1) a dwelling unit that did not exist as an inhabitable dwelling unit on or before January 1, 1996; or

(2) property that did not include a dwelling unit on January 1, 1996.

Sec. 51.005. ENFORCEMENT. (a) A landlord who does not pay a rebate to a tenant in the time required by Section 51.002 is liable to the tenant for the amount of the rebate plus an additional amount equal to two times the amount of the rebate.

(b) A tenant may recover the amounts provided by Subsection (a) by filing suit in a justice or county court. An action brought under this section may be brought as a class action on behalf of all tenants of a landlord to whom the rebate is not paid in the time required.

(c) It is presumed that a landlord did not pay a rebate in the time required by Section 51.002 if the landlord does not present to the court as evidence of the payment:

(1) a receipt for the rebate signed by the tenant or a member of the tenant's household evidencing that the amount of the rebate was paid in the time required; or

(2) a canceled check or similar document evidencing that the amount of the rebate was paid to the tenant in the time required.

(d) A tenant who prevails in an action under this section may recover reasonable attorney's fees.

Sec. 51.006. CIVIL PENALTY. (a) A landlord who does not pay a rebate in the time required by Section 51.002 is liable to the state for a civil penalty. The amount of the penalty is equal to the amount of the rebate.

(b) The penalty is in addition to any amount that the tenant to whom the rebate was required to have been paid may recover from the landlord under Section 51.005.

(c) The county attorney or prosecuting attorney performing the functions of the county attorney shall collect the penalty for the state.

(d) A penalty collected under this section shall be sent to the comptroller. The comptroller shall deposit the penalty to the credit of the housing trust fund.

Sec. 51.007. EXPIRATION. This chapter expires January 1, 2005.

The amendment was again read and was adopted by the following vote:
Yeas 24, Nays 7.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Duncan, Ellis, Gallegos, Harris, Lindsay, Lucio, Luna, Madla, Moncrief, Nixon, Patterson, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Carona, Fraser, Galloway, Haywood, Nelson, Ogden, Shapiro.

(Senator Wentworth in Chair)

(President in Chair)

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 3

Amend CSHB 4 (committee printing) as follows:

Strike SECTION 2.14 of the bill (page 32, line 16 through page 45, line 18).

The amendment was read and failed of adoption by the following vote: Yeas 13, Nays 18.

Yeas: Barrientos, Bivins, Galloway, Lindsay, Luna, Nixon, Ratliff, Shapiro, Shapleigh, Truan, Wentworth, West, Zaffirini.

Nays: Armbrister, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Lucio, Madla, Moncrief, Nelson, Ogden, Patterson, Sibley, Whitmire.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 4

Amend CSHB 4 to read as follows:

(1) In SECTION 2.07 of the bill, Section 311.011 (f)(4) (page 29, line 12) in between "311.007" and "or", add "on".

(2) In SECTION 2.12 of the bill, Sec. 312.205 (a) (page 31, lines 21-22), in between "to" and "the" strike "the department and to".

(3) In SECTION 2.14 of the bill, Sec. 313.002 (7) (page 33, line 27), in between "within" and "area", strike "an" and substitute "a contiguous".

(4) In SECTION 2.14 of the bill, amend Sec. 313.003 (a)(3) (page 34, lines 18-24) to read as follows:

"(3) \$1 billion if the property owner proposes to expand or modernize a project on the real property if:

(A) upon completion of the modernization or expansion the value of the project exceeds \$1 billion; and

(B) the property is subject to ad valorem taxation by a school district on at least the first \$1 billion in taxable value during the term of the contract."

(5) In SECTION 2.14 of the bill, Sec. 313.007 (page 38, line 19 and line 25), in between "payroll" and "of", add "and benefits".

The amendment was read and was adopted by a viva voce vote.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 5

Amend CSHB 4 in SECTION 1.04 of the bill by striking added Section 42.253(e-1), Education Code (committee report page 2, lines 23-42), and substituting the following:

(e-1) Notwithstanding Subsection (e), the amount to which a district is entitled under this section for the 1997-1998 and 1998-1999 school years may not exceed the amount to which the district would be entitled at a tax rate equal to the rate necessary to generate the amount of state and local revenue under the Foundation School Program, exclusive of adjustments under Subsection (i), to which the

district would have been entitled in the 1996-1997 school year. For purposes of this subsection, the amount of state and local revenue under the Foundation School Program to which a district would have been entitled in the 1996-1997 school year is computed using student counts and property values for the 1996-1997 school year and the total tax rate of the district without regard to the limit under Subsection (e) restricting the amount of state aid to the district's tax rate in the 1994-1995 school year. For purposes of this subsection, the tax rate necessary to compute the state and local revenue is computed using the funding elements in place for the 1997-1998 school year. The amount of local revenue to which a district would have been entitled in the 1996-1997 school year under this subsection is computed after a district has exercised options to the extent required by Chapter 41. This subsection expires September 1, 1999.

The amendment was read and was adopted by a viva voce vote.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 6

Amend CSHB 4 in SECTION 1.01 of the bill, in amended Section 41.002(a), Education Code (page 1, line 22), by striking "1999-2000" and substituting "1998-1999".

The amendment was read and was adopted by a viva voce vote.

Senator Luna offered the following amendment to the bill:

Floor Amendment No. 7

Amend CSHB 4, in Article 2, by adding a new section to the bill, appropriately numbered, to read as follows and renumbering existing sections of the bill accordingly:

SECTION 2.____. Effective January 1, 1998, Subchapter F, Chapter 23, Tax Code, is amended by adding Section 23.815 to read as follows:

Sec. 23.815. INELIGIBILITY OF CERTAIN LAND FOR APPRAISAL AS RECREATIONAL, PARK, OR SCENIC LAND. Land is not eligible for appraisal under this subchapter if:

- (1) the land is not open to members of the general public; or
- (2) a fee or other charge is imposed for the recreational, park, or scenic use of the land.

The amendment was read.

On motion of Senator Armbrister, Floor Amendment No. 7 was tabled by the following vote: Yeas 22, Nays 9.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, Zaffirini.

Nays: Barrientos, Ellis, Gallegos, Lucio, Luna, Shapleigh, Truan, West, Whitmire.

Senator Luna offered the following amendment to the bill:

Floor Amendment No. 8

Amend CSHB 4 by inserting the following new section, appropriately numbered, and renumbering the subsequent sections accordingly:

SECTION ____ Subchapter D, Chapter 41, Education Code, is amended by adding Section 41.100 to read as follows:

Sec. 41.100. LIMIT ON DEBT SERVICE TAXES. Notwithstanding any other law, a school district that has a wealth per student exceeding the equalized wealth level and that complies with this chapter by executing an agreement under this subchapter may not levy a tax for purposes of debt service at a rate greater than the greater of:

(1) the rate necessary for the current year to make payments of principal and interest on the bonds for which the tax is pledged; or

(2) the rate that produces revenue that is equal to the amount of revenue attributable to taxes for purposes of debt service that the district retained in the 1996-1997 school year after making payments under this subchapter.

The amendment was read and was adopted by a viva voce vote.

Senator Luna offered the following amendment to the bill:

Floor Amendment No. 9

Amend CSHB 4 as follows:

(1) Insert a new SECTION 1.03 of the bill to read as follows (committee report, page 1, between lines 38 and 39), and renumber existing sections of the bill appropriately:

SECTION 1.03. Section 42.101, Education Code, is amended to read as follows:

Sec. 42.101. BASIC ALLOTMENT. For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an allotment of ~~\$2,355~~ [\$2,387] or a greater amount adopted by the foundation school fund budget committee under Section 42.256. A greater amount for any school year may be provided by appropriation.

(2) In existing SECTION 1.05 of the bill, in amended Section 42.302(a), Education Code (committee report, page 2, line 63), strike "allotments under Subchapters B and C," and substitute "allotments under Subchapter B and C before the commissioner withholds any portion of the allotments for distribution or transfer for a specified purpose as prescribed by this code or by the General Appropriations Act,".

The amendment was read.

On motion of Senator Luna and by unanimous consent, Floor Amendment No. 9 was withdrawn.

Senator Luna offered the following amendment to the bill:

Floor Amendment No. 10

Amend CSHB 4 as follows:

(1) In SECTION 1.05 of the bill, in amended Section 42.302, Education Code (committee report page 2, line 57), strike "29.60" and substitute "the amount determined under Subsection (b)".

(2) In SECTION 1.05 of the bill, in amended Section 42.302, Education Code (committee report page 3, between lines 8 and 9), insert the following:

(b) The guaranteed level ("GL") under Subsection (a) is \$29.60 for the 1997-1998 and 1998-1999 school years. Beginning with the 1999-2000 school year, the guaranteed level is increased or decreased by the same percentage by which the wealth per student that a district may have is increased or decreased under Section 41.002.

(3) In SECTION 1.05 of the bill, in amended Section 42.302, Education Code (committee report, page 3, line 9), strike "(b)" and substitute "(c)".

The amendment was read.

On motion of Senator Luna and by unanimous consent, Floor Amendment No. 10 was withdrawn.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 11

Amend CSHB 4 as follows:

(1) In SECTION 2.02. of the bill, on page 21, line 18, strike "\$0.05" and replace it with "\$0.03".

(2) In SECTION 2.02. of the bill, on page 23, strike lines 24-27.

(3) In SECTION 2.02 of the bill, on page 24, strike lines 1-18, and re-letter each subsection appropriately.

(4) In SECTION 2.02 of the bill, on page 24, strike lines 25-27.

(5) In SECTION 2.02 of the bill, on page 25, strike lines 1-9 and substitute the following:

"(i) For purposes of this section:

(1) The base rollback tax rate of a school district is the sum of:

(A) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year, would provide the same amount of state funds and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that was available to the district in the preceding year;

(B) the rate of \$0.03 per \$100 of taxable value; and

(C) the district's current debt rate.

(2) The district's rollback tax rate is the rate calculated by adding or subtracting, as appropriate, the rollback correction rate to or from the base rollback tax rate.

(3) The rollback correction rate of a school district is the rate determined by the comptroller pursuant to rules adopted by the comptroller

that if applied to current total value for the district would generate an amount of taxes for maintenance and operations equal to the difference between the amount of taxes for maintenance and operations that would have been imposed under the base rollback tax rate as calculated in the preceding year and the amount of taxes that would have been imposed under the base rollback tax rate for that year, had the base rollback tax rate been accurately calculated by the district in the preceding year using the actual amounts of state funds and weighted average daily attendance for the year. If the base rollback tax rate calculated in the preceding year exceeds that rate as calculated using actual amounts, the rollback correction rate is a negative rate. If the base rollback tax rate calculated in the preceding year is less than that rate as calculated using actual amounts, the rollback correction rate is a positive rate."

The amendment was read.

On motion of Senator Ogden and by unanimous consent, Floor Amendment No. 11 was withdrawn.

Floor Amendment No. 12 was not offered.

(Senator Brown in Chair)

(President in Chair)

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 12A

Amend CSHB 4 as follows:

(1) In SECTION 2.02 of the bill, amended Section 26.08, Tax Code (Senate Committee printing), on page 10, strike lines 8-29 and substitute the following:

~~[(e) If a school district is certified by the commissioner of education under Section 42.251(c), Education Code, to have been subject to a reduction in total revenue for the school year ending on August 31 of the tax year:~~

~~[(1) the district's effective maintenance and operations rate for the tax year is calculated as provided by Section 26.012, except that last year's levy is reduced by the amount of taxes imposed in the preceding year, if any, to offset the amount of the reduction certified by the commissioner; and~~

~~[(2) the district's rollback tax rate for the tax year calculated as provided by Section 26.04 or by Subsection (c), as applicable, is increased by the tax rate that, if applied to the current total value for the school district, would impose taxes in an amount equal to the amount of the reduction certified by the commissioner.~~

~~[(f) In a school district that received distributions from an equalization tax imposed under former Chapter 18, Education Code, the effective rate of that tax as of the date of the county unit system's abolition is added to the district's effective maintenance and operations rate under Subsections (a) and (c) of this section in the calculation of the district's rollback tax rate.]~~

(2) In SECTION 2.02 of the bill, amended Section 26.08, Tax Code (Senate Committee printing), on page 10, line 30, strike "(h)" and substitute "(f)".

(3) In SECTION 2.02 of the bill, amended Section 26.08, Tax Code, on page 10, strike lines 36-47 and substitute the following:

(g) For purposes of this section:

(1) The base rollback tax rate of a school district is the sum of:

(A) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year, would provide the same amount of state funds and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that was available to the district in the preceding year;

(B) the rate of \$0.05 per \$100 of taxable value; and

(C) the district's current debt rate.

(2) The district's rollback tax rate is the rate calculated by adding or subtracting, as appropriate, the rollback correction rate to or from the base rollback tax rate.

(3) The rollback correction rate of a school district is the rate determined by the comptroller pursuant to rules adopted by the comptroller that if applied to current total value for the district would generate an amount of taxes for maintenance and operations equal to the difference between the amount of taxes for maintenance and operations that would have been imposed under the base rollback tax rate as calculated in the preceding year and the amount of taxes that would have been imposed under the base rollback tax rate for that year, had the base rollback tax rate been accurately calculated by the district in the preceding year using the actual amounts of state funds and weighted average daily attendance for the year. If the base rollback tax rate calculated in the preceding year exceeds that rate as calculated using actual amounts, the rollback correction rate is a negative rate. If the base rollback tax rate calculated in the preceding year is less than that rate as calculated using actual amounts, the rollback correction rate is a positive rate.

The amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 13

Amend CSHB 4, in proposed Article 2, by inserting the following:

(1) SECTION 2.02, Section 26.08(a-1) Tax Code is amended by striking the word "and" on line 16, page 9, adding a new subdivision (2) to read as follows and renumbering accordingly:

(2) any amount necessary to pay for maintenance and operation expenses budget as of January 1, 1997 paid from general fund balances, in accordance with guidelines issued by the Commissioner of Education, and;

(2) SECTION 2.02, Section 26.08 Tax Code is amended by adding a new Subsection (a-2) on line 18, page 9, renumbering accordingly:

(a-2) For the school year 1999-2000 and 2000-2001, a district which sets a tax rate greater than the rate authorized by (a-1)(1) and (3), to the extent authorized by (a-1)(2), shall reduce its rollback limit authorized by this

section by the amount which exceeds (a-1)(1) and (3), limit, in school year 1997-1998 and 1998-1999 combined.

(3) SECTION 2.02, Section 26.08 Tax Code is amended by adding a new Subsection (a-5) on page 9, between lines 38 and 39 to read as follows:

(a-5) The combined rate under subdivisions (a-1)(2) and (a-1)(3) may not exceed the limitation on rate increase allowed in the 1996 tax year.

The amendment was read and was adopted by a viva voce vote.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 14

Amend **CSHB 4** in Article 1 of the bill by adding the following new sections, appropriately numbered, and renumbering the subsequent sections accordingly:

SECTION 1.____. Section 41.003, Education Code, is amended to read as follows:

Sec. 41.003. **OPTIONS TO ACHIEVE EQUALIZED WEALTH LEVEL.** A district with a wealth per student that exceeds the equalized wealth level may take any combination of the following actions to achieve the equalized wealth level:

- (1) consolidation with another district as provided by Subchapter B;
- (2) detachment of territory as provided by Subchapter C;
- (3) purchase of average daily attendance credit as provided by Subchapter D;
- (4) contracting for the education of nonresident students as provided by Subchapter E; ~~or~~
- (5) tax base consolidation with another district as provided by Subchapter F; ~~or~~

(6) granting an exemption of a portion of the market value of taxable property, including property that is not a residence, located in the district as provided by Subchapter F-1.

SECTION 1.____. Chapter 41, Education Code, is amended by adding Subchapter F-1 to read as follows:

SUBCHAPTER F-1.

EXEMPTION TO ACHIEVE EQUALIZED WEALTH LEVEL

Sec. 41.181. EXEMPTION TO ACHIEVE EQUALIZED WEALTH LEVEL. A school district with a wealth per student that exceeds the equalized wealth level may grant an exemption of a portion of the market value of taxable property, including property that is not a residence, located in the district in compliance with Sections 1-b(g) and (h), Article VIII, Texas Constitution, to reduce the district's wealth per student to a level that is less than or equal to the equalized wealth level.

The amendment was read and failed of adoption by the following vote:
Yeas 7, Nays 24.

Yeas: Carona, Fraser, Haywood, Nelson, Nixon, Ogden, Shapiro.

Nays: Armbrister, Barrientos, Bivins, Brown, Cain, Duncan, Ellis, Gallegos, Galloway, Harris, Lindsay, Lucio, Luna, Madla, Moncrief,

Patterson, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

(President in Chair)

Senator Haywood offered the following amendment to the bill:

Floor Amendment No. 15

Amend CSHB 4 as follows:

Strike ARTICLE 3 and insert the following:

ARTICLE 3. REDUCTION IN STATE SPENDING

SECTION 3.01. REDUCTION. On September 1, 1997, each state agency shall reduce total expenditures estimated for the 1998-1999 biennium by an amount equal to five percent of the total amount of funds appropriated to each agency for the biennium. This section does not apply to any funds dedicated by the Texas Constitution.

SECTION 3.02. TRANSFER. As provided by Chapter 317, Government Code, the Legislative Budget Board shall find that the funding of public schools is an emergency and transfer to the Foundation School Program an amount of appropriations for each state agency equal to sixty percent of the total reduction in expenditures required under Section 3.01 of this Article. An amount of appropriations equal to forty percent of the reduction in expenditures required under Section 3.01 of this Article may be allocated to any public purpose, or for any purpose required by federal law or court order, in accordance with Chapter 317, Government Code.

SECTION 3.03. DISTRIBUTION. The Commissioner of Education shall distribute the funds transferred to the Foundation School Program under Section 3.02 of this Article in accordance with Section 42.302, Education Code.

SECTION 3.04. EXPIRATION. This Article expires August 31, 1999.

The amendment was read.

On motion of Senator Armbrister, Floor Amendment No. 15 was tabled by the following vote: Yeas 27, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Harris, Lindsay, Lucio, Luna, Madla, Moncrief, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Fraser, Galloway, Haywood, Nelson.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 16

Amend CSHB 4 as follows:

On page 49, line 12, insert a new section (v) to read as follows:

(v) a publicly traded partnership as defined in Sec. 7704(c), Internal Revenue Code; or

The amendment was read and was adopted by a viva voce vote.

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 17

Amend CSHB 4 as follows:

On page 19, between lines 24 and 25, insert a new sections (5)(A)(iii) and (iv) to read as follows:

(iii) for entities subject to the State's franchise tax as listed under both Section 3.01(17) and Section 171.1102(b); includes ordinary income and distributions;

(iv) for entities subject to the State's franchise tax as listed only under Section 3.01(17) and not under Section 171.1102(b); includes ordinary income and distributions; except net income from rental real estate activities, net income from other rental activities, portfolio income and tax free income.

The amendment was read and was adopted by a viva voce vote.

Floor Amendment No. 18 was not offered.

(Senator Brown in Chair)

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 18A

Amend CSHB 4 as follows:

(1) In Section 171.101(e), Tax Code, as added by SECTION 3.06 of the bill (committee printing, page 21, line 67), strike "belongs to" and substitute "belongs to or is included in".

(2) In Section 171.110(a)(1)(B), Tax Code, as amended by SECTION 3.15 of the bill (committee printing, page 26, lines 33-35), strike "S corporation or a partnership that is subject to the earned surplus component of the tax imposed under this chapter;" and substitute "a partnership, limited liability company, or S corporation that is taxed under this chapter or would be taxed under this chapter if the partnership, limited liability company, or S corporation were doing business in this state;".

The amendment was read.

On motion of Senator Nixon and by unanimous consent, Floor Amendment No. 18A was withdrawn.

Floor Amendment No. 19 was not offered.

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 19A

Amend CSHB 4 by inserting a new SECTION 3.171 (Senate committee report, page 29, between lines 17 and 18) to read as follows:

SECTION 3.171. Section 171.112(a), Tax Code, is amended to read as follows:

(a) For purposes of this section, "gross receipts" means all revenues that would be recognized annually under a generally accepted accounting principles method of accounting, without deduction for the cost of property

sold, materials used, labor performed, or other costs incurred, unless otherwise specifically provided in this chapter. "Gross receipts" does not include passive income for a taxable entity allowed a deduction under Section 171.1102.

The amendment was read and was adopted by a viva voce vote.

Floor Amendment No. 20 was not offered.

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 20A

Amend CSHB 4 by striking Section 171.001(b)(12) (Senate committee report, page 20, lines 11-13) and substituting:

(12) "Passive income asset" means an asset owned by a taxable entity if:

(A) income generated by the asset, including on disposition, is passive income; and

(B) the asset is not used in the ordinary course of business for the production of income other than passive income.

The amendment was read and was adopted by a viva voce vote.

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 21

Amend CSHB 4 on page 21, line 14, by inserting the following after the period:

a taxable entity that is not required to file documents with the Secretary of State prior to enactment of this act as a part of the taxable entity's organization process, may elect not to file a tax return otherwise required under this section provided that the taxable entity did not owe tax under any provision of this section for the current year and the two preceding years. This exemption to filing does not apply to any year in which the taxable entity would owe tax under any provision of this section.

The amendment was read and was adopted by a viva voce vote.

Floor Amendment No. 22 was not offered.

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 22A

Amend CSHB 4, in SECTION 3.01, by striking Section 171.001(b)(5)(b)(ii), Tax Code, (Senate committee report, page 19, lines 39-40) and substituting:

(ii) an agent who is an entity defined in Subparagraph (i) for a taxable entity to the extent the funds are to be distributed to the taxable entity.

The amendment was read and was adopted by a viva voce vote.

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 23

Amend SECTION 3.08, CSHB 4, on page 56, line 7 by deleting Section 171.103(c), Tax Code and inserting a new section 171.103(c), Tax Code as follows:

~~(c) In apportioning taxable capital of a telephone company, the comptroller shall adopt rules to apportion to this state receipts from this state's portion of a transaction within and without this state.~~

~~(c) For transactions occurring after the effective date of this Act, in apportioning taxable capital of a telephone company,~~

~~(1) all receipts from calls which originate in Texas and ultimately terminate in Texas shall be sourced to Texas.~~

~~(2) all receipts from calls which originate in Texas, ultimately terminate outside of Texas, and are billed to a Texas location are deemed received from a transaction in interstate commerce and shall be sourced 55% to Texas.~~

~~(3) all receipts from calls which originate outside Texas, ultimately terminate in Texas, and are billed to a Texas location are deemed received from a transaction in interstate commerce and shall be sourced 55% to Texas.~~

~~(4) all receipts from calls which neither originate nor ultimately terminate in Texas shall not be sourced to Texas.~~

Amend SECTION 3.09, CSHB 4, on page 57, line 19 by deleting Section 171.1032(c), Tax Code and inserting a new section 171.1032(c), Tax Code as follows:

~~(c) In apportioning taxable earned surplus of a telephone company, the comptroller shall adopt rules to apportion to this state receipts from this state's portion of a transaction within and without this state.~~

~~(c) For transactions occurring after the effective date of this Act, in apportioning taxable earned surplus of a telephone company,~~

~~(1) all receipts from calls which originate in Texas and ultimately terminate in Texas shall be sourced to Texas.~~

~~(2) all receipts from calls which originate in Texas, ultimately terminate outside of Texas, and are billed to a Texas location are deemed received from a transaction in interstate commerce and shall be sourced 55% to Texas.~~

~~(3) all receipts from calls which originate outside Texas, ultimately terminate in Texas, and are billed to a Texas location are deemed received from a transaction in interstate commerce and shall be sourced 55% to Texas.~~

~~(4) all receipts from calls which neither originate nor ultimately terminate in Texas shall not be sourced to Texas.~~

The amendment was read and was adopted by a viva voce vote.

(President in Chair)

Floor Amendment No. 24 was not offered.

(Senator Harris in Chair)

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 24A

Amend CSHB 4 as follows:

(1) Strike Section 171.0011(b), Tax Code, as amended by

SECTION 3.02 of the bill (committee printing, page 20, lines 56-62), and substitute the following:

(b) The additional tax is equal to 4.45 ~~[4.5]~~ percent of the taxable entity's ~~[corporation's]~~ net taxable earned surplus computed on the period beginning on the day after the last day for which the tax imposed on net taxable earned surplus was computed under Section 171.1532 and ending on the date the taxable entity ~~[corporation]~~ is no longer subject to the earned surplus component of the tax.

(2) Strike the introductory language to SECTION 3.03 of the bill (committee printing, page 20, line 67-68) and substitute the following:

SECTION 3.03. Sections 171.002(a), (b), and (d), Tax Code, are amended to read as follows:

(a) The rates of the franchise tax are:

(1) 0.25 percent per year of privilege period of net taxable capital; and

(2) 4.45 ~~[4.5]~~ percent of net taxable earned surplus.

The amendment was read.

On motion of Senator Fraser and by unanimous consent, Floor Amendment No. 24A was withdrawn.

Floor Amendment No. 25 was not offered.

Floor Amendment No. 25A was not offered.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 26

Amend CSHB 4 as follows:

(1) In SECTION 3.54. of the bill, on page 101, line 14, strike "public".

(2) In SECTION 3.54. of the bill, on page 101, line 18, strike "public".

(3) In SECTION 3.54. of the bill, on page 101, line 22, strike "public".

The amendment was read.

On motion of Senator Ogden and by unanimous consent, Floor Amendment No. 26 was withdrawn.

(President in Chair)

Senator Luna offered the following amendment to the bill:

Floor Amendment No. 26A

Amend CSHB 4 page 101 as follows:

Delete Section 3.54 on page 101, lines 8 through page 102, line 25, and renumber sections accordingly.

The amendment was read.

On motion of Senator Luna and by unanimous consent, Floor Amendment No. 26A was withdrawn.

Floor Amendment No. 27 was not offered.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 27A

Amend CSHB 4 as follows:

(1) Amend Section 171.110(a), Tax Code, in SECTION 3.15, to read as follows:

(a) Except as provided by Section 171.1101, the [The] net taxable earned surplus of a taxable entity [corporation] is computed by:

(1) determining the taxable entity's [corporation's] reportable federal taxable income and making the following adjustments:

(A) [:] subtracting [from that amount] any amount included in reportable federal taxable income under Section 78 or Sections 951-964, Internal Revenue Code;

(B) except for an entity described in Section 171.001(b)(5)(B)(i), subtracting any taxable income or deductions included under the provisions of Section 702(a) or 1366(a), Internal Revenue Code, to the extent included in computing federal taxable income from an S corporation or a partnership that is subject to the earned surplus component of the tax imposed under this chapter;

(C) adding, for each other taxable entity owned in whole or part by the taxable entity, in proportion to the amount of that ownership, any amount of passive income subtracted from reportable federal taxable income under Section 171.1102 by the other taxable entity;

(D) subtracting[and] dividends received from a subsidiary, associate, or affiliated corporation that does not transact a substantial portion of its business or regularly maintain a substantial portion of its assets in the United States;

(E) adding, for a taxable entity with more than 35 owners, directly or indirectly, to the extent excluded in determining reportable federal taxable income:

(i) 100 percent of the 35 highest amounts of compensation of each officer, director, and owner who owns 0.1 percent or more of the taxable entity; and

(ii) 50 percent of compensation of each officer, director, and owner who owns 0.1 percent or more of the taxable entity for which compensation is not added under Subparagraph (i); and

(F) subtracting, for a taxable entity with more than 35 owners, directly or indirectly, an amount up to \$100,000 in compensation paid to each officer, director, and owner for which 100 percent of compensation is added under Paragraph (E)(i);

(2) apportioning the taxable entity's [corporations's] taxable earned surplus to this state as provided by Section 171.106(b) or (c), as applicable, to determine the taxable entity's [corporation's] apportioned taxable earned surplus;

(3) adding the taxable entity's [corporation's] taxable earned surplus allocated to this state as provided by Section 171.1061; and

(4) subtracting from that amount any allowable deductions and any business loss that is carried forward to the tax reporting period and deductible under Subsection (e).

(2) Amend Section 171.1101(a), Tax Code, in SECTION 3.16, to read as follows:

(a) The net taxable earned surplus of a partnership is computed by:

(1) determining the partnership's reportable federal taxable income and making the following adjustments:

(A) except for an entity described in Section 171.001(b)(5)(B)(i), subtracting any taxable income or deductions included under the provisions of Section 702(a) or 1366(a), Internal Revenue Code, to the extent included in computing reportable federal taxable income from a partnership that is subject to the earned surplus component of the tax imposed under this chapter;

(B) subtracting, 100% of compensation, to the extent included in determining reportable federal taxable income, of each officer, director, and partner who owns 0.1 percent or more of the partnership;

(C) adding, for a partnership with more than 35 partners, directly or indirectly, to the extent excluded in determining reportable federal taxable income:

(i) 100 percent of the 35 highest amounts of compensation of each officer, director, and partner who owns 0.1 percent or more of the partnership; and

(ii) 50 percent of compensation of each officer, director, and partner who owns 0.1 percent or more of the taxable entity for which compensation is not added under Subparagraph (i); and

(C) subtracting, for a partnership with more than 35 partners, directly or indirectly, an amount up to \$100,000 in compensation paid to each officer, director, and partner for which 100 percent of compensation is added under Paragraph (B)(i);

(2) apportioning the partnership's taxable earned surplus to this state as provided by Section 171.106(b) or (c), as applicable, to determine the partnership's apportioned taxable earned surplus;

(3) adding the partnership's taxable earned surplus allocated to this state as provided by Section 171.1061; and

(4) subtracting from that amount any allowable deductions and any business loss that is carried forward to the tax reporting period and deductible under Subsection (d).

(3) Amend the bill by creating a new Section 4.04 of the bill and renumbering subsequent sections accordingly, to read as follows:

Amend Section 151 of the tax code by creating a new subsection to read as follows:

SECTION 4.04. Sec. 151.0043. "MOTOR VEHICLE REPAIR SERVICES." (a) "Motor vehicle repair services" means the repair, remodeling, maintenance, or restoration of a motor vehicle, including testing or diagnostic services, body repair and painting, engine repair, transmission repair, exhaust system repair, brake repair, and air conditioning repair.

(b) "Motor vehicle repair services: does not include any vehicle emissions tests required by law, safety inspections tests required by law, and other similar tests required by law.

Sec. 151.0044. "MOTOR VEHICLE WASH OR DETAIL SERVICES." (a) "Motor vehicle wash or detail services" includes:

(1) cleaning of the exterior or interior of a motor vehicle, including washing, waxing, polishing, buffing, detailing, shampooing, vacuuming, finishing, or steam cleaning; or

(2) providing an automated facility that provides the services described in Subdivision (1).

(b) "Motor vehicle wash or detail services: does not include the services described in Subsection (a)(1) if the services are provided through the use or operation of a token- or coin-operated self-service or automated facility.

(4) Add a new SECTION 4.031 (page 45, between lines 6 and 7) to read as follows:

SECTION 4.031. Section 151.0101 (a), Tax Code, is amended to read as follows:

(a) "Taxable services" means:

(1) amusement services;

(2) cable television services;

(3) personal services;

(4) motor vehicle parking and storage services;

(5) the repair, remodeling, maintenance, and restoration of tangible personal property, including motor vehicle repair services, except:

(A) aircraft;

(B) a ship, boat, or other vessel, other than:

(i) a taxable boat or motor as defined by Section 160.001;

(ii) a sports fishing boat; or

(iii) any other vessel used for pleasure; and

(C) ~~[the repair, maintenance, and restoration of a motor vehicle; and~~
~~(D)]~~ the repair, maintenance, creation, and restoration of a computer program, including its development and modification, not sold by the person performing the repair, maintenance, creation, or restoration service;

(6) telecommunications services;

(7) credit reporting services;

(8) debt collection services;

(9) insurance services;

(10) information services;

(11) real property services;

(12) data processing services;

(13) real property repair and remodeling;

(14) security services; ~~[and]~~

(15) telephone answering services; and

(16) motor vehicle wash and detail services.

The amendment was read.

Senator Nixon offered the following amendment to Floor Amendment No. 27A:

Floor Amendment No. 27B

Amend Floor Amendment No. 27A to CSHB 4 as follows:

(1) Add the following appropriately numbered new item to the amendment to read as follows:

() In Section 171.101(e), Tax Code, as added by SECTION 3.06 of the bill (committee printing, page 21, line 67), strike "belongs to" and substitute "belongs to or is included in".

(2) On page 1 of the amendment, lines 17-19, strike "S corporation or a partnership that is subject to the earned surplus component of the tax imposed under this chapter;" and substitute "a partnership, limited liability company, or S corporation that is taxed under this chapter or would be taxed under this chapter if the partnership, limited liability company, or S corporation were doing business in this state;".

Floor Amendment No. 27B was read.

On motion of Senator Nixon and by unanimous consent, Floor Amendment No. 27B was withdrawn.

The question recurred on the adoption of Floor Amendment No. 27A.

Senator Armbrister moved to table Floor Amendment No. 27A.

On motion of Senator Shapiro and by unanimous consent, Floor Amendment No. 27A was withdrawn.

On motion of Senator Armbrister and by unanimous consent, the motion to table Floor Amendment No. 27A was withdrawn.

Senator Nixon again offered the following amendment to the bill:

Floor Amendment No. 18A

Amend CSHB 4 as follows:

(1) In Section 171.101(e), Tax Code, as added by SECTION 3.06 of the bill (committee printing, page 21, line 67), strike "belongs to" and substitute "belongs to or is included in".

(2) In Section 171.110(a)(1)(B), Tax Code, as amended by SECTION 3.15 of the bill (committee printing, page 26, lines 33-35), strike "S corporation or a partnership that is subject to the earned surplus component of the tax imposed under this chapter;" and substitute "a partnership, limited liability company, or S corporation that is taxed under this chapter or would be taxed under this chapter if the partnership, limited liability company, or S corporation were doing business in this state;".

The amendment was again read and was adopted by a viva voce vote.

Floor Amendment No. 28 was not offered.

Floor Amendment No. 29 was not offered.

(Senator Brown in Chair)

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 30

Amend CSHB 4 as follows:

On page 19, between lines 24 and 25, insert a new section (5)(A)(iii) to read as follows:

(iii) includes ordinary income and distributions from an entity that is subject to the State's franchise tax as described under Section 3.01(17); except net income from rental real estate activities, net income from other rental activities, and portfolio income.

The amendment was read.

On motion of Senator Armbrister and by unanimous consent, Floor Amendment No. 30 was withdrawn.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 31

Amend CSHB 4 by inserting a new SECTION 4.091 (page 46, between lines 65 and 66) to read as follows:

SECTION 4.091. Subchapter H, Tax Code, is amended by adding Section 151.354 to read as follows:

Sec. 151.354. SCHOOL SUPPLIES. (a) A taxable item is exempted from the taxes imposed by Subchapter C if the item:

(1) is listed by a principal, vice-principal, or teacher of a public elementary or secondary school as an item required in the performance of classroom work at the school; and

(2) is sold on the premises of the school by the school or a nonprofit organization designated by the school.

(b) The storage, use, or consumption of a taxable item acquired tax-free under this section is exempted from the use tax imposed by Subchapter D until the item is resold or subsequently transferred.

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 32

Amend CSHB 4 as follows:

(1) On page 46, between lines 39 and 40 add SECTION 4.081 to read as follows:

SECTION 4.081. Section 151.313(a), Tax Code, is amended to read as follows:

(a) The following items are exempted from the taxes imposed by this chapter:

(1) a drug or medicine, including vitamins ~~[other than insulin, if prescribed or dispensed for a human or animal by a licensed practitioner of the healing arts];~~

(2) ~~[insulin;~~

~~[(3)]~~ a hypodermic syringe or needle;

(3)~~[(4)]~~ a brace; hearing aid or audio loop; orthopedic, dental, or prosthetic device, ileostomy, colostomy, or ileal bladder appliance; or supplies or replacement parts for the listed items;

(4)~~[(5)]~~ a medical or therapeutic appliance, device, or product ~~[and any related supplies specifically designed for those products, if dispensed or prescribed by a licensed practitioner of the healing arts, when those items are~~

~~purchased and used by an individual for whom the items listed in this subdivision were dispensed or prescribed];~~

(5)[(6)] corrective lens and necessary and related supplies, if dispensed or prescribed by an ophthalmologist or optometrist;

(6)[(7)] specialized printing or signalling equipment used by the deaf for the purpose of enabling the deaf to communicate through the use of an ordinary telephone and all materials, paper, and printing ribbons used in that equipment;

(7)[(8)] a braille wristwatch, braille writer, braille paper and braille electronic equipment that connects to computer equipment, and the necessary adaptive devices and adaptive computer software;

(8)[(9)] each of the following items if purchased for use by the blind to enable them to function more independently: a slate and stylus, print enlarger, light probe, magnifier, white cane, talking clock, large print terminal, talking terminal, or harness for guide dog; and

(9)[(10)] hospital beds.

(2) On page 42, line 21, insert new subdivision "(1) Section 171.052:" after "repealed:" and renumber the subsequent subdivisions accordingly.

The amendment was read.

On motion of Senator Armbrister, Floor Amendment No. 32 was tabled by the following vote: Yeas 22, Nays 9.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth.

Nays: Barrientos, Ellis, Gallegos, Luna, Shapleigh, Truan, West, Whitmire, Zaffirini.

(President in Chair)

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 32A

Amend CSHB 4 on page 46, between lines 65 and 66, by adding SECTION 4.091 to read as follows:

SECTION 4.091 Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.326 to read as follows:

Sec. 151.326. CLOTHING FOR CHILDREN. (a) The sale of an article of clothing or footwear designed to be worn on or about the body of a person younger than 13 years of age is exempted from the taxes imposed by this chapter.

(b) This section does not apply to:

(1) any special clothing or footwear primarily designed for athletic activity or protective use and which is not normally worn except when used for the athletic activity or protective use for which it is designed; and

(2) accessories, including jewelry, handbags, luggage, umbrellas, wallets, watches, and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing.

The amendment was read.

Senator Duncan offered the following amendment to Floor Amendment No. 32A:

Floor Amendment No. 32B

Amend Floor Amendment No. 32A to **CSHB 4** as follows:

Delete SECTION (2) of the amendment on page 2, at lines 15-17.

The amendment to Floor Amendment No. 32A was read.

On motion of Senator Duncan and by unanimous consent, Floor Amendment No. 32B was withdrawn.

The question recurred on the adoption of Floor Amendment No. 32A.

On motion of Senator Armbrister, Floor Amendment No. 32A was tabled by the following vote: Yeas 20, Nays 11.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth.

Nays: Barrientos, Ellis, Gallegos, Lucio, Luna, Madla, Shapleigh, Truan, West, Whitmire, Zaffirini.

(Senator Brown in Chair)

Senator Patterson offered the following amendment to the bill:

Floor Amendment No. 33

Amend **CSHB 4** as follows:

Insert in Article 4 in the appropriate place the following:

Sec. 151.346. INTERCORPORATE SERVICES. (a) There are exempt from the taxes imposed by this chapter service transactions among affiliated entities;

(1) at least one of which is a corporation that report their income to the Internal Revenue Service on a single consolidated return for the tax year in which the transaction occurs; or

(2) at least one of which is a limited liability company and the entities are each owned, directly or indirectly, 50% or more by the same persons.

The amendment was read.

On motion of Senator Patterson and by unanimous consent, Floor Amendment No. 33 was withdrawn.

Floor Amendment No. 34 was not offered.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 35

Amend **CSHB 4** as follows:

1. In SECTION 5.01, strike page 48, line 59 through line 66, (new subsection (d) of Section 466.015, Government Code), and substitute the following:

(d) The Lottery Commission shall renegotiate the contract with the lottery operator to increase the revenue generated for the State from lottery proceeds, in part by obtaining an agreement from the lottery operator to produce an increase in the State's share of the lottery proceeds for the 1998-99 biennium such that the total of the State's share is not less than the amount reflected in the Comptroller's 1998-99 budget certification revenue estimate. If the certification estimate of lottery proceeds is not achieved, the lottery operator must reduce its fee or make a payment to the state as necessary to compensate the state for any shortfall in the state's share of lottery proceeds. Not later than July 31, 1999, the Commission shall publish in the Texas Register a notice of the amount, if any, by which the state's share of lottery proceeds is projected to fall short of the certified amount. The deposit to the Foundation School Fund of the amount representing any reduction in fee paid to the lottery operator, or payment by the lottery operator to the state, shall be completed by August 15, 1999.

2. On page 48, lines 11-13, strike the underlined language.
3. On page 49, line 18, strike "(a)".
4. On page 49, strike lines 25-32.

The amendment was read and was adopted by the following vote:
Yeas 22, Nays 9.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Gallegos, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nixon, Patterson, Shapleigh, Truan, Wentworth, Whitmire, Zaffirini.

Nays: Ellis, Fraser, Galloway, Nelson, Ogden, Ratliff, Shapiro, Sibley, West.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 37

Amend CSHB 4 as follows:

(1) In Article 7 of the bill, strike proposed Section 154.021(b) and substitute a new Section (b) to read as follows:

(b) The tax rates are:

(1) \$31.00 ~~[\$20.50]~~ per thousand on cigarettes weighing three pounds or less per thousand; and

(2) the rate provided by Subdivision (1) plus \$2.10 per thousand on cigarettes weighing more than three pounds per thousand.

(2) In Article 7 of the bill, add a new Section 7.021 to read as follows and renumber existing sections accordingly:

SECTION 7.021. Section 154.603, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) An amount equal to 50 cents per thousand cigarettes of the money allocated to the general revenue fund may be used only by the Texas Department of Health to expand access to health insurance for needy children provided through the state Medicaid program.

The amendment was read.

On motion of Senator Ellis and by unanimous consent, Floor Amendment No. 37 was withdrawn.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 38

Amend **CSHB 4** as follows:

On page 56, line 21 of the committee printing, Section 2059.008 of the bill, strike Subsection (c) in its entirety and reletter the subsequent Subsections appropriately.

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The amendment was read and was adopted by the following vote:
Yeas 26, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Duncan, Ellis, Gallegos, Galloway, Harris, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapleigh, Sibley, Truan, West, Whitmire, Zaffirini.

Nays: Carona, Fraser, Shapiro, Wentworth.

Absent: Haywood.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 39

Amend **CSHB 4** as follows: on page 145, line 24, strike "0.05 [~~\$0.0275~~]" and substitute "0.0275".

The amendment was read and was adopted by the following vote:
Yeas 21, Nays 8, Present-not voting 1.

Yeas: Armbrister, Barrientos, Brown, Cain, Carona, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Madla, Nelson, Nixon, Ogden, Patterson, Shapiro, Wentworth, Whitmire, Zaffirini.

Nays: Bivins, Lucio, Moncrief, Ratliff, Shapleigh, Sibley, Truan, West.

Present-not voting: Duncan.

Absent: Luna.

Senator Patterson offered the following amendment to the bill:

Floor Amendment No. 34A

Amend **CSHB 4** by adding a new SECTION 4.091 to read as follows:

SECTION 4.091. Section 151.346, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) For transactions involving a service that becomes taxable after August 31, 1997, "affiliated entities" includes a business trust, corporation,

limited liability company, limited liability partnership, limited partnership, or general partnership 50 percent of which is owned, directly or indirectly, by an entity that is part of a group of entities connected through ownership with a common parent, and without regard to whether the entities report their income to the Internal Revenue Service on a single consolidated return for the tax year in which the transaction occurs.

The amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 40

Amend CSHB 4 as follows: on page 145 line 20 by striking existing Article 13 and adding new Article 13 and renumbering the following sections.

ARTICLE 13. CEMENT OR CONCRETE PRODUCTION TAX

SECTION 13.01. Chapter 181, Tax Code, is amended to read as follows:

Chapter 181. Cement or Concrete Production Tax

181.001. Tax Imposed

(a) A tax is imposed on a person who:

(1) manufactures or produces cement or concrete in, or imports cement or concrete into, the state; and

(2) distributes or sells the cement or concrete in intrastate commerce or uses the cement or concrete in the state.

(b) The tax is computed on the amount of cement or concrete distributed, sold, or used by the person for the first time in intrastate commerce.

(c) The tax applies to only one distribution, sale or use of cement or concrete.

(d) For purposes of this chapter, "concrete" means construction material consisting of conglomerate gravel, pebbles, broken stone or slag in a mortar or cement matrix.

181.002. Rate of Tax

The rate of the tax imposed by this chapter is \$0.0275 for each 100 pounds or fraction of 100 pounds of taxable cement and \$0.10 for each cubic yard of taxable concrete.

181.003. Payment of Tax

(a) The person on whom the tax is imposed by this chapter shall pay the tax to the comptroller at the comptroller's Austin office.

(b) The tax payment is due on the 25th day of each month, and the amount of the tax payment is computed on the amount of business done during the preceding month by the person on whom the tax is imposed.

181.004 Exemption: Interstate Commerce

The tax imposed by this chapter is not computed on an interstate distribution or sale of cement or concrete.

181.051. Report

On or before the 25th day of each month, a person on whom the tax is imposed by this chapter shall file with the comptroller a report stating:

(1) the amount of taxable cement or concrete distributed, sold, or used by the person during the preceding month;

(2) the amount of cement or concrete produced in, imported into, or exported out of the state by the person during the preceding month; and

(3) other information that the comptroller requires to be in the report.

181.052. Records

(a) A person on whom the tax is imposed by this chapter shall keep a record of the business conducted by the person and of other information that the comptroller requires to be kept.

(b) The record is an open record to the comptroller and the attorney general.

(c) The comptroller shall adopt rules to enforce this section.

The amendment was read.

On motion of Senator Armbrister and by unanimous consent, Floor Amendment No. 40 was withdrawn.

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 41

Amend **CSHB 4** by striking Sections 466.015(c)(14)-(16), Government Code (page 48, lines 47-58), and substituting:

"(14) the criteria to be used in evaluating bids for contracts for lottery facilities, goods, and services; or

(15) any other matter necessary or desirable as determined by the commission, to promote and ensure:

(A) the integrity, security, honesty, and fairness of the operation and administration of the lottery; and

(B) the convenience of players and holders of winning tickets."

The amendment was read and was adopted by a viva voce vote.

Senator Haywood offered the following amendment to the bill:

Floor Amendment No. 36

Amend **CSHB 4** by inserting the following appropriately numbered sections in the bill and renumbering the subsequent sections of the bill accordingly:

SECTION ____ . Section 466.002, Government Code, is amended to read as follows:

Sec. 466.002. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Lottery Commission.

(2) "Director" means the director of the division.

(3) "Division" means the lottery division established by the commission under Chapter 467.

(4) "Executive director" means the executive director of the commission.

(5) "Local government" means a county or a municipality.

(6) "Lottery" means the procedures operated by the state under this chapter through which prizes are awarded or distributed by chance among persons who have paid, or unconditionally agreed to pay, for a chance or other opportunity to receive a prize.

(7) [~~6~~] "Lottery game" includes a lottery activity.

(8) [(7)] "Lottery operator" means a person selected under Section 466.014(b) to operate a lottery.

(9) "Lottery revenue area" means:

(A) for a county, all the area of the county except the area within the boundaries of a municipality; and

(B) for a municipality, the area within the boundaries of the municipality, and does not include any area in the municipality's extraterritorial jurisdiction.

(10) "Lottery subsidiary account" means an account that facilitates the comptroller's collection of and accounting for the lottery revenue of a local government that is maintained by the comptroller as a subsidiary account of a treasury suspense account used by the comptroller for collecting the sales and use tax of the local government.

(11) [(8)] "Player" means a person who contributes any part of the consideration for a ticket.

(12) [(9)] "Sales agent" or "sales agency" means a person licensed under this chapter to sell tickets.

(13) [(10)] "Ticket" means any tangible evidence issued to provide participation in a lottery game authorized by this chapter.

SECTION ____ Section 466.351, Government Code, is amended to read as follows:

Sec. 466.351. DELIVERY OF FUNDS. (a) Except as provided by Subsection (d) and Section 466.3515, all revenue received from the sale of tickets and all money credited to the state lottery account from any other source shall be deposited in the state treasury through approved state depositories on the settlement day or days established by the director.

(b) ~~[(The director may require sales agents to establish separate electronic funds transfer accounts for the purposes of depositing money from ticket sales, making payments to the division, and receiving payments from the division.)]~~ The commission by rule shall establish the procedures for depositing money from ticket sales into electronic funds transfer accounts, as well as other procedures regarding the handling of money from ticket sales. The director may require sales agents to establish separate electronic funds transfer accounts for the purposes of:

(1) depositing gross revenue from ticket sales as required by Section 466.3515;

(2) depositing other money from ticket sales;

(3) making payments to the division; or

(4) receiving payments from the division.

(c) The director may not permit a sales agent to make payments to the division or a lottery operator in cash.

(d) The director may provide for a sales agent to retain from the money received from the sale of tickets the amount of prizes paid by the agent or the agent's commission, if any, and may establish how often the agent will make settlement payments to the treasury. Money retained by a sales agent does not reduce the money received by a local government under Section 466.3515.

(e) The director may provide for a sales agent to pay amounts received for the sale of tickets directly to an officer or employee of the division for immediate deposit in the state treasury.

SECTION __. Subchapter H, Chapter 466, Government Code, is amended by adding Section 466.3515 to read as follows:

Sec. 466.3515. LOTTERY REVENUE AREA. (a) The director shall collect from a sales agent for a local government five percent of the money collected from the sale of tickets by an agency located in the lottery revenue area of the local government if the local government has taken the necessary actions under Section 140.008, Local Government Code, to enable the local government to receive the money.

(b) The director shall deposit the money collected by the director for a local government as provided by this section with the comptroller. The comptroller shall keep the deposits in trust in a lottery subsidiary account.

(c) The comptroller shall establish a sales and use tax treasury suspense account for a local government that receives money from the lottery but that does not impose a sales and use tax.

(d) The comptroller shall, at the end of the state's fiscal biennium, transfer to a local government all funds from the local government's lottery subsidiary account if:

(1) the amount in the local government's lottery subsidiary account is \$500 or more; and

(2) the surplus of funds in the state treasury as determined by the comptroller is an amount equal to or greater than twice the total amount payable to all local governments from lottery subsidiary accounts.

(e) Except as provided by Subsection (f), the comptroller shall keep in trust the deposits of a local government if the amount in the account is less than \$500 until the end of a state fiscal biennium when the local government qualifies for a transfer of funds as provided by Subsection (d).

(f) The comptroller shall transfer to the state lottery account all funds from all lottery subsidiary accounts if the surplus in the state treasury at the end of the state's fiscal biennium is less than twice the total amount payable to all local governments under this section.

(g) The director shall determine the lottery revenue area in which each sales agency is located.

(h) A sales agent shall report to the director a change of location of the sales agency or a change of boundaries of a local government that may cause the sales agency to change its location from the lottery revenue area of one local government to the lottery revenue area of a different local government.

(i) A local government shall notify the director regarding a boundary change of the local government that may cause the lottery revenue area of any local government to change.

(j) The director may transfer to the state lottery account any revenue from tickets sold in a lottery revenue area of a local government during a period in which the local government fails to comply with the requirements of this chapter or a commission rule.

(k) The commission shall adopt rules necessary for the proper accounting and safeguarding of revenue transferred under this section.

(l) The comptroller shall adopt rules necessary for the proper accounting and safeguarding of revenue transferred under this section.

SECTION __. Section 466.355(a), Government Code, is amended to read as follows:

(a) The state lottery account is a special account in the general revenue fund. The account consists of all revenue received from the sale of tickets less the amount transferred to local governments as provided by Section 466.3515, license and application fees under this chapter, and all money credited to the account from any other fund or source under law. Interest earned by the state lottery account shall be deposited in the unobligated portion of the general revenue fund.

SECTION __. Chapter 140, Local Government Code, is amended by adding Section 140.008 to read as follows:

Sec. 140.008. LOTTERY REVENUE OF A LOCAL GOVERNMENT.

(a) Before a county or municipality may receive lottery revenue as provided by Section 466.3515, Government Code, the commissioners court of the county or the governing body of the municipality must:

(1) provide written notice to the lottery director to collect and to the comptroller to deposit, by use of electronic funds transfer, the amount of lottery revenue that the lottery director determines to be appropriate into an account of the county or municipality;

(2) establish an electronic funds transfer account into which the comptroller may deposit the lottery revenue; and

(3) comply with any rule established by the Texas Lottery Commission or the comptroller relating to the collection or receipt of lottery revenue.

(b) A municipality may use lottery revenue provided under Section 466.3515, Government Code, for any public purpose.

(c) A county may use lottery revenue provided under Section 466.3515, Government Code, for any public purpose for which the general funds of the county may be used.

SECTION __. (a) The provisions of this Act relating to the collection and distribution of lottery revenue to local governments take effect September 1, 2001, and for purposes of transfer of money by the comptroller from a lottery subsidiary account of the treasury suspense account used by the comptroller for collecting the sales and use tax for a local government, apply to a lottery ticket that is purchased on or after January 1, 2002. Except as otherwise provided by this Act, for the purposes of collecting and distributing lottery revenue to local governments, a lottery ticket that is purchased on or after September 1, 2001, and before January 1, 2002, is governed by the law as it existed immediately before September 1, 2001, and that law is continued in effect for that purpose.

(b) The Texas Lottery Commission shall establish rules relating to the collection and distribution of lottery revenue to local governments, as required by this Act, not later than November 1, 2001.

(c) The comptroller shall adopt rules regarding the distribution of lottery revenue to local governments, as required by this Act, not later than November 1, 2001.

The amendment was read.

POINT OF ORDER

Senator Armbrister raised a point of order that Floor Amendment No. 36 had not been discussed in committee.

POINT OF ORDER RULING

The Presiding Officer, Senator Brown in Chair, ruled that the point of order was well-taken and sustained.

Senator Patterson offered the following amendment to the bill:

Floor Amendment No. 42

Amend CSHB 4 by adding a new Article, appropriately numbered to read as follows:

**ARTICLE ____ FEE ON REAL
AND PERSONAL PROPERTY RECORDS**

Sec. ____ .01. Section 118.011, Local Government Code, is amended by adding Subsection (e) to read as follows:

(e) A county clerk shall collect an affordable housing fee of \$1 for each document filed for recording for which a fee is charged as described by Section 118.012 or 118.013. This fee is in addition to any other fee charged for recording the document, and the clerk shall collect the fee at the time the document is presented for recording.

Sec. ____ .02. Subchapter B, Chapter 118, Local Government Code, is amended by adding Section 118.0135 to read as follows:

Sec. 118.0135. AFFORDABLE HOUSING FEE. (a) The county clerk shall remit to the county treasurer the affordable housing fee collected during a month in accordance with Section 118.011(e). The county treasurer shall remit to the comptroller 90 cents of each affordable housing fee not later than the 10th day after the last day of each quarter.

(b) The comptroller shall deposit amounts remitted to the comptroller under this section to the housing trust fund established under Section 2306.201, Government Code, for use in accordance with the purposes of that fund.

(c) The county shall retain the remaining 10 cents of each affordable housing fee to reimburse the county for the expense of collecting and remitting the affordable housing fee.

Sec. ____ .03. Subsection (b), Section 2306.201, Government Code, is amended to read as follows:

(b) The fund consists of:

(1) appropriations or transfers made to the fund;

(2) money deposited to the fund under Section 118.0135, Local Government Code;

(3) unencumbered fund balances; and

(4) ~~[(3)]~~ public or private gifts or grants.

Sec. ____ .04. The change in law made by this Article applies only to a document presented for recording to a county clerk on or after the effective date of this Act.

Sec. ____ .05. This Article takes effect September 1, 1997.

The amendment was read.

On motion of Senator Patterson and by unanimous consent, Floor Amendment No. 42 was withdrawn.

Senator Patterson offered the following amendment to the bill:

Floor Amendment No. 43

Amend CSHB 4 by adding the following appropriately numbered article and sections and renumbering the existing articles as appropriate:

ARTICLE __. CERTAIN FEE LIMITATIONS

SECTION __. (a) Section 182.025, Tax Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) A city or town may not collect a fee described by Subsection (a) after the second anniversary of the date the fee becomes due, except through judicial proceedings filed in accordance with Subsection (e).

(e) If the city or town seeks judicial relief to collect a fee, the action must be filed not later than the second anniversary of the date the fee becomes due.

(b) The change in law made by this section, relating to when a cause of action must be filed in a court, applies only to a cause of action that is filed on or after the effective date of this section.

SECTION __. Section 182.026(b), Tax Code, is amended to read as follows:

(b) This subchapter does not:

(1) affect collection of ad valorem taxes; or

(2) except as provided by Section 182.025, impair or alter a provision of a contract, agreement, or franchise made between a city and a public utility company relating to a payment made to the city.

SECTION __. (a) Subchapter Z, Chapter 311, Transportation Code, is amended by adding Section 311.905 to read as follows:

Sec. 311.905. STATUTE OF LIMITATIONS ON THE COLLECTION OF CERTAIN FEES FOR THE USE OF MUNICIPAL STREETS. (a) A municipality may not collect a fee relating to a contract, agreement, or franchise between the municipality and a public utility for the use of a municipal street, alley, or public way by the public utility in the course of its business after the fourth anniversary of the date the fee becomes due except through judicial proceedings filed in accordance with Subsection (c).

(b) A municipality may not collect from the owner of an interurban pipeline a fee for the use of a municipal street, alley, or public way to place, construct, maintain, repair, replace, operate, use, or remove the pipeline after the fourth anniversary of the date the fee becomes due except through judicial proceedings filed in accordance with Subsection (c).

(c) If a municipality seeks judicial relief to collect a fee described by Subsection (a) or (b), the action must be filed not later than the fourth anniversary of the date the fee becomes due.

(d) In this section, "interurban pipeline" means a line of pipe that conveys petroleum products, chemical products, crude oil, hazardous liquids, or natural gas on, along, under, over, or across a public right-of-way that passes through a municipality.

(b) The change in law made by this section, relating to when a cause of action must be filed in a court, applies only to a cause of action that is filed on or after the effective date of this section.

SECTION _____. Chapter 253, Local Government Code, is amended by adding Section 253.009 to read as follows:

Sec. 253.009. FEES FOR USE OF PUBLIC RIGHT-OF-WAY. A municipality may impose a reasonable fee on the owner or operator of a pipeline located on, along, under, over, or across a public right-of-way in the municipality.

SECTION _____. This article takes effect September 1, 1997.

The amendment was read.

POINT OF ORDER

Senator Armbrister raised a point of order that Floor Amendment No. 43 was not germane to the body of the bill.

POINT OF ORDER RULING

The Presiding Officer, Senator Brown in Chair, ruled that the point of order was well-taken and sustained.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 44

Amend proposed CSHB 4 in Article 5 as follows:

(1) In the heading to Article 5 (page 84, line 20), after "REVENUE", add "AND EDUCATIONAL PROGRAMS FUNDED BY LOTTERY REVENUE".

(2) Strike Section 5.02 (beginning on page 87, line 1) and substitute the following:

SECTION 5.____. Subchapter B, Chapter 466, Government Code, is amended by adding Section 466.026 to read as follows:

Sec. 466.026. GAME TO FUND TEXAS HOPE EDUCATION PROGRAM. (a) The commission shall operate a lottery game to fund the Texas Hope Education Program. The program consists of the Texas Hope tuition assistance grant program established by Subchapter G, Chapter 56, Education Code, the Hope adult literacy grant program established by Section 7.025, Education Code, and other educational programs as provided by law. The commission shall operate the game as an instant-win game and shall provide for tickets to the game to be available for sale continuously to the extent practicable. The commission may vary the manner in which the game is played or conducted as the commission determines appropriate.

(b) The commission shall market and advertise the lottery game operated under this section in a manner intended to inform the general public that tickets to the game are available for purchase and that the net proceeds from the game are used to fund educational programs in this state. The commission shall consider any recommendations made by the Texas Higher Education Coordinating Board and Texas Education Agency relating to the marketing and advertising of the game.

(c) The commission shall encourage each ticket sales agent that sells tickets to instant-win or similar types of lottery games to sell tickets to the lottery game operated under this section.

(d) The commission may not operate, market, or advertise any other lottery game to fund or support a specific program or purpose.

SECTION 5.____. Section 466.355, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Money in the state lottery account may be used only for the following purposes and shall be distributed as follows:

(1) the payment of prizes to the holders of winning tickets;

(2) the payment of costs incurred in the operation and administration of the lottery, including any fees received by a lottery operator, provided that the costs incurred in a fiscal biennium may not exceed an amount equal to 15 percent of the gross revenue accruing from the sale of tickets in that biennium;

(3) the establishment of a pooled bond fund, lottery prize reserve fund, unclaimed prize fund, and prize payment account; and

(4) the balance, after creation of a reserve sufficient to pay the amounts needed or estimated to be needed under Subdivisions (1) through (3), to be transferred on or before the 15th day of each month as follows:

(A) the portion of the balance attributable to the lottery game operated under Section 466.026 determined as provided by Subsection (c) as follows:

(i) 80 percent to an account in the general revenue fund to be used only to fund the Texas Hope tuition assistance grant program established by Subchapter G, Chapter 56, Education Code; and

(ii) 20 percent to the Hope adult literacy account established by Section 7.025, Education Code; and

(B) the remainder of the balance to the unobligated portion of the foundation school [general revenue] fund[-on or before the 15th day of each month].

(c) The portion of the balance of the state lottery account attributable to the lottery game operated under Section 466.026 for each period for which a distribution is made under Subsection (b) is an amount equal to the revenue from the sale of tickets to the lottery game operated under Section 466.026 for the period less an amount calculated by multiplying the total amount deposited to the reserve account to pay the amounts needed or estimated to be needed for the period under Subsections (b)(1)-(3) by a fraction, the numerator of which is the revenue from the sale of tickets to the lottery game operated under Section 466.026 for the period and the denominator of which is the total revenue from the sale of tickets to all lottery games for the period.

SECTION 5.____. Subchapter G, Chapter 56, Education Code, is amended to read as follows:

SUBCHAPTER G. TEXAS HOPE TUITION ASSISTANCE GRANT PROGRAM

Sec. 56.101. PROGRAM NAME. The student financial assistance program authorized by this subchapter is known as the Texas Hope tuition assistance grant program, and an individual grant awarded under this subchapter is known as a Texas Hope tuition assistance grant.

Sec. 56.102. PURPOSE. The purpose of this subchapter is to provide an eligible person a grant of money for tuition and required fees to enable that person to attend an institution of higher education.

Sec. 56.103. ELIGIBLE PERSON. (a) To be eligible for a Texas Hope tuition assistance grant, a person must:

- (1) be a Texas resident as defined by coordinating board rules;
- (2) enroll for a full course load in an institution of higher education as defined by Section 61.003 or 61.222 ~~[of this code]~~;
- (3) be from a low-income or middle-income family and establish financial need as defined by coordinating board rules;
- (4) within the two years preceding the person's grant application, have graduated from a secondary school with a cumulative grade average that is equal to or greater than the equivalent of 80 on a scale of 100;
- (5) have applied for any available financial assistance; and
- (6) have complied with any other requirements adopted by the coordinating board under this subchapter.

(b) A person is not eligible to receive a Texas Hope tuition assistance grant if the person:

- (1) has been granted a baccalaureate degree; or
- (2) has been convicted of a felony or a crime involving moral turpitude, unless the person has met the eligibility requirements under Subsection (a) ~~[of this section]~~ and has:

(A) received a certificate of discharge by the Texas Department of Criminal Justice or a correctional facility or completed a period of probation ordered by a court, and at least two years have elapsed from the date of the receipt or completion; or

(B) been pardoned or otherwise released from the resulting ineligibility to participate in the Texas Hope tuition assistance grant program.

Sec. 56.104. ADMINISTRATIVE AUTHORITY. The coordinating board shall provide a Texas Hope tuition assistance grant to an eligible person enrolled in an institution of higher education based on the financial need of that person. The total amount of Texas Hope tuition assistance grants distributed by the coordinating board may not exceed the amount appropriated for the Texas Hope tuition assistance grant program.

Sec. 56.105. PAYMENT OF GRANT; AMOUNT. (a) On receipt of a person's Texas Hope tuition assistance grant application, an enrollment report from the institution of higher education enrolling the person, and a certification of the amount of financial need from the institution of higher education, the coordinating board shall distribute the amount of the grant for the person to the institution of higher education.

(b) The amount of a Texas Hope tuition assistance grant may not exceed the amount of tuition and required fees the student would be charged at a public senior institution of higher education and, when added to other gift aid, may not exceed the financial need of the student.

Sec. 56.106. LIMITATIONS ON GRANT. A person entitled to a Texas Hope tuition assistance grant loses that person's right to future payments of money from the grant program if the person:

- (1) does not make steady academic progress toward a baccalaureate degree as determined under coordinating board rules;
- (2) does not maintain full-time enrollment standing for at least two semesters in any academic year;
- (3) has a grade average that is in the lower 50 percent of the total grade averages of all full-time students enrolled in the same college or other department in the institution of higher education; or

(4) is convicted of a felony or a crime involving moral turpitude, unless the person has met eligibility requirements as defined in Section 56.103(a) ~~[of this code]~~ and has:

(A) received a certificate of discharge by the Texas Department of Criminal Justice or a correctional facility or has completed a period of probation ordered by a court, and at least two years have elapsed from the date of the receipt or completion; or

(B) been pardoned or otherwise released from the resulting ineligibility to participate in the Texas Hope tuition assistance grant program.

Sec. 56.107. ADOPTION AND DISTRIBUTION OF RULES. (a) The coordinating board shall adopt rules to administer this subchapter.

(b) The coordinating board shall distribute to each institution of higher education and to each school district copies of all rules adopted under this subchapter.

Sec. 56.108. FUNDING. (a) The coordinating board may accept gifts and grants from any public or private source for the purposes of this subchapter.

(b) Texas Hope tuition assistance grants are payable from gifts, grants, and funds appropriated by the legislature.

SECTION 5. ____ Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.025 to read as follows:

Sec. 7.025. HOPE ADULT LITERACY GRANTS. (a) The Hope adult literacy account is established as an account in the general revenue fund.

(b) The Hope adult literacy account consists of:

(1) money transferred to the account under Section 466.355, Government Code;

(2) gifts and grants made to the account;

(3) amounts appropriated to the account by the legislature;

(4) other money the agency obtains for deposit to the account; and

(5) interest earned on the money in the account.

(c) The agency may make grants from the interest earned on the money in the account to adult literacy programs that the agency determines will most effectively use the grant to further adult literacy in this state. A grant may be made only to fund a program operated by a nonprofit community-based organization approved by the agency or by a consortium or association that includes a nonprofit community-based organization approved by the agency as a principal participant. The agency may not distribute the principal of the account.

(d) The agency shall establish an advisory committee to assist the agency in administering this section. The agency shall establish the terms of the appointed members of the advisory committee. The advisory committee consists of nine members selected as follows:

(1) one representative of the agency designated by the commissioner;

(2) one representative of the Texas Workforce Commission designated by the executive director of the commission; and

(3) the following members appointed by the commissioner:

(A) one representative of a statewide coalition or association of community-based adult literacy programs, to serve as presiding officer of the committee;

(B) one member representing community-based adult literacy organizations in rural areas;

(C) one member representing community-based adult literacy organizations in urban areas;

(D) two members representing different statewide adult literacy organizations;

(E) one member representing local workforce development boards; and

(F) one member representing the business community.

(e) The agency shall adopt rules for the awarding and distribution of grants under this section.

SECTION 5.____. Section 481.026, Government Code, is repealed.

(3) Strike Section 5.05 (beginning on page 88, line 8) and substitute the following:

SECTION 5.____. (a) The change in law made to Section 466.355(b), Government Code, by this article applies only to a transfer from the state lottery account made on or after the effective date of this article.

(b) The Texas Lottery Commission shall establish and begin selling tickets to the lottery game required by Section 466.026, Government Code, as added by this article, not later than January 1, 1998.

(c) The Texas Higher Education Coordinating Board shall make grants under the Texas Hope tuition assistance grant program beginning with the 1998 fall semester.

(d) On the effective date of this article, all funds and accounts established under Section 481.026, Government Code, including the Texas literacy trust fund, are transferred from the management of the Texas Department of Commerce to the management of the Texas Education Agency under Section 7.025, Education Code, as added by this article.

The amendment was read.

On motion of Senator Ellis and by unanimous consent, Floor Amendment No. 44 was withdrawn.

Floor Amendment No. 45 was not offered.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 45A

Amend **CSHB 4** on page 8, between lines 55 and 56, by adding SECTION 2.011 to read as follows:

SECTION 2.011. Subchapter B, Chapter 22, Tax Code, is amended by adding Section 22.231 to read as follows:

Sec. 22.231. PENALTY FOR FAILURE TO DELIVER RENDITION STATEMENT OR PROPERTY REPORT. (a) A person required by this chapter to deliver a rendition statement or property report to the chief appraiser is liable for a penalty if the person fails to deliver the statement or report in the time required by this chapter.

(b) The amount of a penalty under Subsection (a) is an amount equal to:

(1) 10 percent of the tax due for the tax year of the property included on the statement or report if the person delivers the statement or report after May 15 but before June 1; or

(2) 25 percent of the tax due for the tax year of the property required to be included on the statement or report if the person fails to deliver the statement or report before June 1.

(c) If a rendition statement or property report required by this chapter is delivered to the chief appraiser after May 15 but before June 1, the chief appraiser shall:

(1) enter in the appraisal records the appraised and taxable value of the property;

(2) make an entry in the appraisal records for the property indicating liability for the penalty imposed under Subsection (b)(1); and

(3) send a written notice of imposition of the penalty to the person who delivered the report or statement that includes an explanation for its imposition.

(d) If on or after June 1 the chief appraiser discovers that a person required by this chapter to deliver a rendition statement or property report has failed to deliver the statement or report before June 1, the chief appraiser shall:

(1) appraise the property as of January 1 of the year in which the person was required to deliver the statement or report;

(2) enter in the appraisal records the appraised and taxable value of the property;

(3) make an entry in the appraisal records for the property indicating liability for the penalty imposed under Subsection (b)(2); and

(4) send a written notice of imposition of the penalty to the person required to deliver the report or statement that includes an explanation for its imposition.

(e) The amount of a penalty under this section:

(1) is the personal obligation of the person required to deliver the rendition statement or property report; and

(2) constitutes a lien on the property to which the rendition statement or property report applies and accrues penalty and interest in the same manner as a delinquent tax on that property.

(f) This section does not apply to a rendition statement or property report required or permitted by Section 22.02 or 22.03.

SECTION 2. This Act takes effect January 1, 1998, and applies only to the rendition of property for ad valorem tax purposes on or after that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Barrientos and by unanimous consent, Floor Amendment No. 45A was withdrawn.

CSHB 4 as amended was passed to third reading by the following vote: Yeas 23, Nays 8.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carona, Duncan, Fraser, Harris, Lindsay, Lucio, Luna, Madla, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Cain, Ellis, Gallegos, Galloway, Haywood, Moncrief, Nelson, Whitmire.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, May 9, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 99, Relating to the funding and operation of certain emergency management and disaster relief programs.

HB 2778, Relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE

HOUSE JOINT RESOLUTION 4 ON SECOND READING

Senator Armbrister asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSHJR 4, Proposing a constitutional amendment providing for certain priority and minimum funding for public schools, dedicating certain lottery proceeds to public education, authorizing certain taxes on entities, authorizing the creation of a commission to study efficiency in state government, and providing for transfer or further reduction of a limitation of school tax on homesteads of the elderly.

There was objection.

Senator Armbrister then moved to suspend the regular order of business and take up **CSHJR 4** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carona, Duncan, Fraser, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Cain, Ellis, Gallegos, Galloway, Moncrief, Nelson, Whitmire.

CSHJR 4 was read second time.

Senator Madla offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **CSHJR 4** as follows:

On page 1, line 26 of the committee printing, Article III Section 31a. of the Texas Constitution, strike Subsection (b) in its entirety and reletter the subsequent Subsections appropriately.

MADLA
CAIN

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Wentworth asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 1.

Senator Shapiro offered the following amendment to the resolution:

Floor Amendment No. 2

Amend **CSHJR 4** as follows:

1. On page 1, line 36, strike "education" and substitute "free schools".
2. On page 1, lines 44-45, strike "elementary and secondary public school education" and substitute "public free schools".
3. On page 1, line 51, insert "free" between "public" and "schools".
4. On page 2, line 35, strike "elementary and secondary".
5. On page 2, line 36, insert "free" between "public" and "school".
6. On page 2, line 42, strike "elementary and secondary".
7. On page 2, line 42, insert "free" between "public" and "school".

SHAPIRO
LUNA

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Ellis asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 2.

CSHJR 4 as amended was passed to third reading by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carona, Duncan, Fraser, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Cain, Ellis, Gallegos, Galloway, Moncrief, Nelson, Whitmire.

REASON FOR VOTE

Senator Haywood submitted the following reason for vote on **HJR 4** and **HB 4**:

Members, in this chamber hang pictures of great Texans who have taken risks in making public policy. Back in the old days, this body hardly knew what it was getting into. But, look at us now. I admire those Texans.

I also admire Texans like Ken Armbrister and Teel Bivins. You two will be remembered in some form or fashion on this side of the capital. You have taken risks, and I admire that. You have shown willingness to work and think beyond party lines.

And, Lieutenant Governor Bullock, you are a great Texan for exercising leadership on this issue. You once said—before all this tax debate really got started—that "Governor Bush was the lead mule," and that "someone had to pull the Borax across the salt flats." Now, Governor Bullock, I am not willing to go so far as to call you an old mule—but I certainly want the people in this state to know this: you participated in this process—with nothing to lose personally by not participating—in order to keep the issue alive and on course. This state owes you. You could have let George W. pull the Borax by himself, but you offered to get out of the wagon and help.

I admire Governor Bush for raising the issue of property tax reform. This debate is long overdue. If it wasn't for him holding meetings during the interim and throwing a plan into the arena, we would not be debating today.

Senator Bivins and Senator Armbrister, Governor Bullock, Members of the Senate—I will vote for **HJR 4**, but I will respectfully vote no on **HB 4**. As a courtesy to the electorate, I will help my colleagues pass **HJR 4**. However, **HB 4** has certain elements which trouble me . . . a Texan.

When we first set out, the call was for property tax relief. Then it was financing schools. Regardless, the scope of this debate is now school finance and property tax relief. Schools have approached me with concerns for both versions of the tax bill. Taxpayers have approached me and said why bother if all it means is a few hundred dollars in savings per year.

I am always willing to listen to my constituents. But, in the end, even if you base your decisions on several hundred phone calls and letters, you are not granting yourself the benefit of a good sample. The words of my constituents weigh heavily on my mind, but my gut instinct weighs just as heavily and tells me that this is not what Texans truly wanted. Folks in Jayton might not see any relief. Folks in Sabine Pass, Bremond, and Winkler might not see any property tax relief. Like the great Texans who preceded us, I, too, am taking a risk and voting against the bill because I think we will fall short in meeting expectations of relief.

True, all bills are compromises and no one's expectations are ever fully met. But at this time, I can only think back to the lottery. When enacted, the perception was that the money go to education. Now, we are here voting to send it to education, or at least make it appear that it is going to education. Now, the perception for property tax reform is relief. Not only in property taxes, but overall relief. The public, I feel, was captivated by the perception of relief, but unaware of the reality of tax equity. Here—somewhere between

perception and reality—is where public frustration will breed over the next few years. I truly hope that we are not back here in two, four, or six years revisiting the property tax issue in order to meet current expectations.

I want to stress that a vote for this bill is not bad policy. A vote for this bill is not a lack of wisdom or effort. Members, I respect and honor your vote for this bill. I'll ask that you allow me—without prejudice—to cast mine in opposition.

I do this—as a Texan, for all Texans. Thank you.

HAYWOOD

HOUSE BILL 1107 REREFERRED

On motion of Senator Moncrief and by unanimous consent, **HB 1107** was withdrawn from the Committee on State Affairs and was rereferred to the Committee on Finance.

PERMISSION TO INTRODUCE BILL

On motion of Senator Truan and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bill: **SB 1952**

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time, and referred to the committees indicated:

SB 1951 by Wentworth

Relating to the sales and use tax in certain metropolitan transit authorities.
To Committee on Intergovernmental Relations.

SB 1952 by Truan, Brown, Patterson

Relating to the jurisdiction of certain statutory county courts.
To Committee on Intergovernmental Relations.

HOUSE BILL ON FIRST READING

The following bill received from the House was read first time and referred to the committee indicated:

HB 92 to Committee on State Affairs.

MEMORIAL RESOLUTIONS

SR 698 - by Sibley: In memory of Gladys Youngblood Ross of Johnson County.

SR 703 - by Barrientos: In memory of Thomas Andrew Mayes of Austin.

WELCOME AND CONGRATULATORY RESOLUTIONS

SCR 80 - by Cain: Commending the employees of the Texas Highway Department and Texas Department of Transportation.

SCR 86 - by Bivins: Honoring Kenneth H. Ashworth.

SCR 87 - by Barrientos: Commending the O. Henry Museum of Austin.

SR 228 - by Brown, Lindsay: Commending Katy Taylor High School's academic decathlon team.

SR 633 - by Truan: Honoring Lieutenant Governor Bob Bullock.

SR 695 - by Truan: Welcoming Mr. Pi-Cheng Liu of Taiwan to the State Capitol.

SR 697 - by West: Congratulating the Moorland Branch of the Metropolitan Young Men's Christian Association of Dallas.

SR 699 - by Carona: Congratulating Preston Charles Patterson of Balch Springs.

SR 700 - by Madla: Honoring Dr. Frank Bash of The University of Texas at Austin.

SR 701 - by Ratliff: Recognizing Elliott Eastepp of White Oak.

SR 702 - by Truan: Welcoming Dr. Carlos Camino Munoz to the Texas State Capitol.

HCR 207 - (Ratliff): Honoring James A. Dawson of Lamar County.

MISCELLANEOUS RESOLUTIONS

SR 696 - by West: Declaring Saturday, May 24, 1997, Noble Gilstrap Day.

SR 704 - by Sibley: Designating Clifton the Norwegian Capital of Texas.

ADJOURNMENT

On motion of Senator Truan, the Senate at 8:38 p.m. adjourned, in memory of the life of David Villarreal, until 9:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

May 9, 1997

ADMINISTRATION — **SR 625, HCR 55, HCR 143**

INTERNATIONAL RELATIONS, TRADE, AND TECHNOLOGY —
HB 1487 (Amended)

NATURAL RESOURCES — **HB 1016** (Amended), **HB 1145** (Amended),
HB 1206 (Amended), **CSHB 776**

INTERGOVERNMENTAL RELATIONS — **HB 2964** (Amended), **HB 3025**
(Amended)

FINANCE — **HB 2933, HB 2923, HB 2519, HB 2411, HB 1855, HB 1795, HB 1773, HB 1673, HB 1577, HB 621**

HEALTH AND HUMAN SERVICES — **HB 2119 (Amended)**

ECONOMIC DEVELOPMENT — **CSSB 1798, CSSB 1948**

INTERGOVERNMENTAL RELATIONS — **HB 2071 (Amended)**

HEALTH AND HUMAN SERVICES — **HB 492 (Amended), CSHB 2126, CSHB 2510**

NATURAL RESOURCES — **SB 1944, HB 2945, HB 3061, HB 2541, HB 1367, HB 2847, SB 1943**

INTERGOVERNMENTAL RELATIONS — **CSHB 3170**

STATE AFFAIRS — **HB 32 (Amended), HB 344 (Amended), HB 1180 (Amended), CSHB 1908, CSHB 670, SB 1560 (Amended)**

SENT TO GOVERNOR

May 9, 1997

SB 249, SB 251, SB 263, SB 290, SB 655, SB 667, SB 753, SB 1697, SB 1712, SB 1879, SB 1913, SCR 24, SCR 32

**In Memory
of
David Villarreal**

Senator Lucio offered the following resolution:

(Senate Resolution 659)

WHEREAS, The Senate of the State of Texas joins the citizens of Edinburg in mourning the loss of David Villarreal, who died on July 30, 1996; and

WHEREAS, Born on August 27, 1963, in Chicago, Illinois, David was the oldest of six children born to Juan and Martha Villarreal; and

WHEREAS, This promising young man completed training with the National Science Foundation Student Science Training Program at Colorado State University in 1981; and

WHEREAS, David attended Pan American University and San Jacinto College; and

WHEREAS, A graduate of the United States Border Patrol Academy, he completed his training on May 27, 1987; and

WHEREAS, Dedicated to his career in law enforcement, he took and completed a 40-hour course in Emergency Medical Training qualifying him as an Emergency Care Attendant in November, 1988; and

WHEREAS, One who was interested in forging ties with his community, Agent Villarreal had worked with the Del Rio Emergency Response Team, which met twice a month to drill and attend training sessions; and

WHEREAS, A man of unquestioned ability and integrity, David Villarreal was a courageous man who risked his life every day to protect his country because he believed in the importance of a fair and effective law enforcement system; and

WHEREAS, After being stationed in Carrizo Springs, Texas, and Mercedes, Texas, as a Border Patrol Agent and a Senior Border Patrol Agent, David Villarreal was called upon to act as the Supervisory Border Patrol Agent in the absence of the first-line supervisor; he fulfilled his role with expertise; and

WHEREAS, This outstanding drug enforcement agent volunteered as the president of the Carrizo Springs Welfare and Recreation Association, was a member of the planning committee of the Our Lady of Guadalupe Catholic Church Jamaica Festival, was a Commissioner of the City of Carrizo Springs Planning and Zoning Committee, and was a member of the Chamber of Commerce Tourism and Economic Development Committee; and

WHEREAS, During his tenure with the United States Border Patrol, Agent Villarreal set a high standard of professionalism,

inspiring others by his loyalty, dependability, and exemplary conduct; and

WHEREAS, This exceptional officer was a man of great bravery whose strong sense of duty was reflected by a deep commitment to the welfare of others; his memory will live on in the hearts of the many people whose lives were touched by this remarkable man; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby pay tribute to the life of David Villarreal and extend sincere condolences to his family: his parents, Juan and Martha Villarreal; and his brothers and sisters, Rigoberto, Javier, Martha, Oralia, and Everard; and, be it further

RESOLVED, That a copy of this Resolution be prepared for his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of David Villarreal.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Lucio and by unanimous consent, the resolution was adopted by a rising vote of the Senate.

Senator Lucio was recognized and introduced to the Senate the family members of David Villarreal: his parents Juan and Martha Villarreal and his brothers and sisters Rigoberto, Javier, Martha, Oralia, and Everard.

The Senate welcomed its guests and extended its sympathy to the family.

